

# Senate State Affairs Committee

Minutes  
2007



## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** January 12, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**ABSENT/  
EXCUSED:** Senators Geddes, Davis, Stegner, and Stennett.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement E).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:05 a.m.

**Chairman McKenzie** introduced the Page for the first half of the session, Alaine Walker from Lewiston.

**Chairman McKenzie** turned the meeting over to **Vice Chairman Jorgenson** for the presentation of the Pending Rules.

**PENDING  
RULES:  
31-1101-1601** **Vice Chairman Jorgenson** introduced **Commissioner Paul Kjellander** from the Idaho Public Utilities Commission. **Commissioner Kjellander** addressed the Committee regarding pending Rule 31-1101-1601 which relates to the safety and accident reporting rules for utilities regulated by the Idaho Public Utilities Commission.

**Vice Chairman Jorgenson** asked the committee if there were any questions for **Commissioner Kjellander**. There being none, he asked the committee to approve the pending rule.

**MOTION:** **Vice Chairman Jorgenson** made a motion to approve rule 0601 and **Senator Little** seconded the motion. The motion carried.

**11-0401-0601** **Jack Baker, Executive Director** for the Idaho State Racing Commission addressed the committee regarding the pending rules. **Mr Baker** stated that Rule 11-0401-0601 pertains to drug and alcohol testing to protect the integrity of horse racing in the state. Last year there were three positive tests for alcohol and one for methamphetamine which were effectively dealt with.

**Chairman McKenzie** asked **Mr. Baker** if this applied to controlled substances such as codeine. **Mr. Baker** responded that if they test positive for drugs and can show proof of a prescription that would be an exception. **Chairman McKenzie** commented that he appreciates what is being done regarding this rule. **Senator Little** asked if this was a fee rule. **Senator Darrington** responded that a pending rule is not a fee rule.

**Chairman McKenzie** added that an analysis was done and that this was not flagged as a fee rule.

**Vice Chairman Jorgenson** asked if there were any more questions regarding this rule.

**MOTION:** **Senator Little** made a motion to approve rule 0601 and **Senator Malepeai** seconded the motion. The motion carried.

**11-0401-0602** **Vice Chairman Jorgenson** asked **Mr. Baker** to discuss rule 0602. **Mr. Baker** stated that this rule defines and establishes the recognized horsemen's group and that the definition was changed for the new group to acquire a license.

**Senator Little** stated we know who the groups are and the gate is split. **Mr. Baker** commented that the track to license needs an agreement with the commission and that prior management wanted this. **Senator Little** asked if this is going back to what was recognized before and **Mr. Baker** replied yes that it is. **Vice Chairman Jorgenson** added that the horsemen's group that used to get the split will be the recipient after the rule is adopted.

**MOTION:** **Senator Darrington** made a motion to accept rule 0602 and **Chairman McKenzie** seconded the motion. The motion carried.

**11-0401-0603** **Vice Chairman Jorgenson** asked **Mr. Baker** to discuss rule 0603. **Mr. Baker** stated that this rule is basically what is referred to as the "milk shaking rule". The trainers inject CO2 into the blood stream of racing horses and the muscles create lactic acid. The CO2 level would delay fatigue. It is not illegal but considered an unfair advantage. It is a National rule now and this rule is patterned after it. **Vice Chairman Jorgenson** asked if this would help an aging Senator up the capitol steps. **Mr. Baker** answered, "yes it would." He added that the better shape the horse is in, the less lactic acid is produced. **Vice Chairman Jorgenson** asked if there were any additional questions.

**MOTION:** **Chairman McKenzie** made a motion to approve rule 0603. **Senator Malepeai** seconded the motion. The motion carried.

**11-0401-0604** **Mr. Baker** continued with rule 0604 and he stated that this rule increases the weight the horse can carry on the fair circuit. If there is a shortage of available jockeys to ride, they can use local riders, and they typically weigh more. The Clerk of Scales will report the weight and the betting public will be informed of the correct weights.

**MOTION:** **Senator Little** made the motion to approve rule 0604 and **Senator Darrington** seconded the motion. The motion carried.

**11-0402-0601** **Mr. Baker** presented rules 11-0402-0601 and 0602 relating to simulcasting. Rule 0601 clarifies the purse structure divided between the horsemen and the track. The previous management ran off with the money and this rule gives the horsemen protection. **Senator Little** asked if this was before the committee last year. **Jackie Libengood** from the

Racing Commission stated yes. We became the custodian and this rule explains it.

**MOTION:** **Vice Chairman Jorgenson** asked the committee to approve rule 0601 and **Chairman McKenzie** seconded the motion. The motion carried.

**11-0402-0602** **Mr. Baker** continued and stated that rule 0602 deletes duplicate advance deposit wagering distribution language in the rules. The statute distributes 10% to the track for expenses. Their highest cost is for worker's compensation. This distribution saved three tracks from going under.

**MOTION:** **Senator Little** made a motion to accept rule 0602. **Senator Malepeai** seconded the motion and the motion carried.

**38-0406-0601** **Vice Chairman Jorgenson** asked **Tim Mason**, Administrator for the Public Works, to present Rule 38-0406-0601 which relates to pre-qualification of contractors. **Mr. Mason** stated this rule was needed to develop a criteria to select contractors for specific work being done and control the workmanship.

**Vice Chairman Jorgenson** asked if there were any questions for **Mr. Mason**. **Senator Malepeai** asked if this rule applied only to the Capitol Building or if it included other state public work projects. **Mr. Mason** answered that this rule was needed for specific work being done to the Capitol, and is only applicable to the Capitol Building project.

**MOTION:** **Senator Darrington** made the motion to approve rule 0601 and **Senator Malepeai** seconded the motion. The motion carried.

**Senator Darrington** asked to strike the motion and approve it at the next meeting as the committee did not have a quorum. **Chairman McKenzie** had excused himself from the meeting. **Senator Little** agreed and stated he supported **Senator Darrington's** suggestion to wait for a quorum. The committee will reconsider this rule at the January 17, 2007 meeting.

**ADJOURN:** There being no further business before the committee, **Vice Chairman Jorgenson** adjourned the meeting at 8:35 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** January 15, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** Senator Stennett.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement E).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:07 a.m.

**GUBERNATORIAL APPOINTMENTS:** **Chairman McKenzie** introduced **Andrea Wassner**.

**Ms. Wassner** addressed the committee regarding her reappointment to the Idaho Commission on Human Rights. Since 1986 she has been employed by the Social Security Administration and has worked in the Caldwell office for fourteen years. She has training in human rights and worker's compensation. **Governor Kempthorne** originally appointed her to this commission and she believes it is important to have training in EEO (Equal Employment Opportunity) . Normally she works one on one in dealing with EEO statutes, and it has been interesting to see that the laws are followed and that they conform to federal as well as state laws.

**Chairman McKenzie** asked the committee if they had any questions for **Ms. Wassner**. **Senator Malelpeai** commented that considering today is Martin Luther King Jr.'s Day, appearing before the committee was very timely. He asked **Ms. Wassner** since this is a reappointment, does she see any particular area in which she will be working. **Ms. Wassner** responded the educational side regarding small businesses and that she would like to see the commission continue even more in that regard. This could help the commission to avoid a lot of cases coming before them.

**Senator Davis** stated he was troubled last fall when the Human Rights Commission refused to enter into a political issue and the resolution was on the ballot. He asked her to speak to this regarding the role of the commission and their relationship to those types of issues. **Ms. Wassner** replied that she didn't think it is unusual for any commission to speak out on legislation that is pending. The Human Rights Commission thought to be mute regarding this was inappropriate. The commission felt very strongly that it was a human rights issue and they voted unanimously to oppose it. **Senator Davis** asked if all members were in favor of this. **Ms. Wassner** answered, "yes, those who were in attendance." **Senator Davis** asked **Ms. Wassner** when she was first appointed to the

commission. **Ms. Wassner** stated she believed it was in 2004 or 2005.

**Chairman McKenzie** thanked **Ms. Wassner** and advised her that the committee would be voting on her appointment at the next committee meeting.

**Chairman McKenzie** introduced **Randolph J. Hill** and asked him to discuss his reappointment to the Idaho Energy Resources Authority. **Mr. Hill** stated that he is an executive with the Washington Group International, Inc. and is involved in project development. He was previously employed by Ida-West Energy and before returning to Idaho in 1990 he was an attorney in New York. He is the secretary and treasurer of the Idaho Energy Resources Authority and they have been engaged in activities for over a year now. This past year the authority selected a firm to manage the financing. Lehman Brothers will assist them as the senior underwriting manager and help facilitate the transmission and generation projects.

**Chairman McKenzie** asked the committee if they had any questions for **Mr. Hill**. **Senator Davis** asked **Mr. Hill** if Lehman Brothers is the managing broker, and would some competition be encouraged to provide better rates on the bonds. **Mr. Hill** answered that the objective was to find a firm to assist the authority with some fairly complex financing in moving forward. The authority believes it is a good idea to have a long standing relationship with a managing underwriting firm to assist in transactions for a period of time. In terms of pricing of any specific issue, the authority wants to make sure the best price is available. In larger transactions, Lehman would act as either sole or co-manager with another firm. The authority felt it was important to establish a relationship with someone who has expertise in public financing to assist them as the process begins over the next few years in structuring deals. **Senator Davis** asked **Mr. Hill** if the authority has had some success to date. **Mr. Hill** answered that the authority has not closed any financing as yet, but they are looking at a number of opportunities. The largest one is assisting in the independent power project in Delta, Utah. It is a coal fired project and some cities and co-operatives in the state of Idaho will take a piece of that generation. Several other transmission projects are in various stages of permitting and they anticipate at least one financing this year if not more.

**Senator Davis** stated that in the recent election the city of Idaho Falls approved authority to participate in that coal fired plant in Utah. The state of Utah has some unique statutes in place that will limit other states municipalities or entities. It will make it difficult to receive the generated power. He asked **Mr. Hill** what solutions there might be in addressing energy needs. **Mr. Hill** replied that the issue **Senator Davis** speaks of is an important one and **Ron Williams** has some proposed legislation, which will amend the Idaho Energy Resources Authority Act to allow the IERA (Idaho Energy Resources Authority) to act in a management capacity on behalf of the entities who participate in the financing. This would satisfy the legal requirements of the Utah statutes and provide a conduit for the management of the plant. **Ron Williams**, legal counsel for the authority, addressed the committee and stated that the bill has not been printed as yet. **Senator Davis** stated he believed this was a different direction for the authority than what was initially contemplated.

He asked **Mr. Hill** what type of side walls would be appropriate to make sure the authority stays true to the spirit of what the legislature had originally intended. **Mr. Hill** responded that the legislation that was drafted would not allow the authority to become active operators of all the energy facilities and help finance them. The authority is in essence a conduit or financing vehicle. It would allow the authority to be the voice on the management board for the entities that are being financed through them. The language limits them and the objective is to facilitate low cost financing to enhance energy facilities for the citizens of Idaho.

**Senator Darrington** asked **Mr. Hill** that considering whatever the legal or political hurdles are in Utah, will it require a block of participants or can an individual make that decision for that project to move forward? **Mr. Hill** replied that if fewer than the initial number of entities do not participate, they will just take a smaller piece of the block and that it shouldn't prevent it from moving forward. Other parties outside of Idaho are ready to step in and pick up any slack that the state doesn't. Idaho Falls passing the bond election is a very significant piece.

**Senator Little** asked **Mr. Hill** how does the authority operate and who pays the expenses. **Mr. Hill** answered that a loan was obtained from ICU (Idaho Consumer Utilities). The authority signed a demand note that will have to be paid back. Currently they are using those funds for operation and they receive no legislative monies. Lehman Brothers currently is assisting the authority with no compensation on the theory that when transactions are closed, they will begin to take fees.

**Chairman McKenzie** advised **Mr. Hill** that his appointment would be voted on in the next committee meeting and thanked him for speaking to the committee.

**ADJOURN:**

There being no further business before the committee, **Chairman McKenzie** adjourned the meeting at 8:25 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** January 17, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Senators Darrington, Geddes, Stegner, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** Senators Jorgenson, Davis, and Little.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** Having a quorum present, **Chairman McKenzie** called the meeting to order at 8:15 a.m.

**MINUTES:** **Chairman McKenzie** stated that the first order of business is the approval of the minutes for the January 12 meeting. **Senator Darrington** presented that he had read and approved the minutes. **Senator Stegner** seconded the motion and the motion carried by voice vote.

**PENDING RULES:** **Chairman McKenzie** introduced **Tim Mason**, the Administrator for the Division of Public Works. **Mr. Mason** stated this rule is regarding the pre-qualification of contractors for the Capitol renovation. He continued and added that in the 2006 legislative session, Idaho Code 67-5711C was amended to allow the Division of Public Works to pre-qualify contractors. These rules before the committee set out the basic process the division would use, if it requires pre-qualification for a project on the Capitol. Additionally, it includes notice and appeals. The rules also require for any pre-qualification relevant to the contractors ability, confidence, experience and performance history and that they provide some examples of those criteria such as financial status, prior experience, references, civil judgments, any loss or suspension of their license. These rules are only applicable to the Capitol Building projects. **Senator Malepeai** asked for some examples after the meeting on Friday, January 12, as to what trades that may need to be pre-qualified. Copies were handed out of the memorandum that was prepared in this regard. **Mr. Mason** indicated that scagliola, plaster, marble, fire sprinkler, decorative woodwork and hardware is probably what the division would be looking at. The list isn't necessarily all inclusive, and doesn't mean that they would be pre-qualified, nor does it mean they are the only trades that would be.

**Chairman McKenzie** asked if there were questions for **Mr. Mason**. **Senator Malepeai** commented that he appreciated the information that **Mr. Mason** had provided to the committee. He basically wanted to know



if there were any specialized skills required and what might be needed to be done to pre-qualify the contractors for some of the sensitive areas of the Capitol.

**MOTION:**

There being no other questions for **Mr. Mason**, **Senator Darrington** made a motion to approve the rule 38-0406-0601. **Senator Malepeai** seconded the motion and the motion carried by voice vote.

**GUBERNATORIAL  
APPOINTMENTS:**

**Chairman McKenzie** introduced **Patricia J. Story** regarding her reappointment to the State Building Authority. **Ms. Story** addressed the committee and stated that she enjoys serving on this particular board and that it is her third term. Her background is in public affairs and for a number of years she has been active in the real estate profession. In addition, she was a broker for about twenty-five years. She continued and stated that she has had the opportunity to work with a number of attorneys and other professionals regarding property selection for their offices. The authority is a good group of individuals and she appreciates the honesty and integrity of all. The authority meets about four times a year.

**Chairman McKenzie** asked the committee for any questions. There being none, he advised **Ms. Story** that the committee would vote on her appointment at the next meeting and he thanked her for her time.

**Chairman McKenzie** continued with the confirmation votes regarding **Andrea Wassner** to the Human Rights Commission. **Senator Malepeai** made a motion to approve **Ms. Wassner** to the Human Rights Commission. **Senator Stegner** seconded the motion. **Chairman McKenzie** stated he had a comment to make with regard to the position that the commission took on the initiative that was on the November ballot. The commission was against the initiative and took a formal position regarding it. Typically, state bodies would not do this and he was surprised that they took such a position in that regard. There were no other comments or discussion. The motion carried by voice vote.

**Senator Stegner** made a motion to approve **Randolph J. Hill** to the Energy Resources Authority. **Senator Malepeai** seconded the motion. The motion carried by voice vote.

**RS16455**

**Chairman McKenzie** stated there is a print hearing this morning regarding RS16455. **Mr. Ted Roper**, the Manager of the ISIF (Industrial Special Indemnity Fund) addressed the committee and stated that Idaho Code Section 72-327 needs to be amended to streamline the assessment process that funds the ISIF. The amendment was made last year in error as to the date. Paragraph 3 of the statute indicates no later than March 31, of the next year that the data would be due from the insureds. The date should have been March 3.

**Senator Stegner** asked **Mr. Roper** to point out the line item for this change. **Mr. Roper** indicated it is in paragraph 3, the last line. **Senator Darrington** added that it is on line 42.

**MOTION:**

**Senator Darrington** moved to print RS16455. **Senator Stennett**

seconded the motion and it carried by voice vote.

**ADJOURN:** There being no further business before the committee, **Chairman McKenzie** adjourned the meeting at 8:30 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** January 19, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement E).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:05 a.m.

**GUBERNATORIAL APPOINTMENTS:** **Chairman McKenzie** welcomed **Lydia Justice-Edwards** to the committee regarding her appointment to the Idaho Lottery Commission. He asked her to tell the committee how she sees her role in the commission and maybe she could expound a little on the details as to why she showed up at **Senator Darrington's** doorstep covered in mud. **Ms. Edwards** stated it was a pleasure to be before the committee. During the 1990 Centennial, many hiked the Oregon and California trail and she found herself near Declo, Idaho. It had rained for two days and she thought **Senator Darrington** could rescue her. She hitched a ride into town and he did. His wife made tea and sandwiches, dried her clothes and saved her life. The next day she was back out on the trail. She continued and said she never dreamed she would be back in this beautiful building on an official purpose. **Governor James Risch** contacted her in August and asked her to serve on the commission. Initially she wasn't sure, but the Governor reassured her she would enjoy it and so she decided that she would do so. She has attended four meetings and has learned a great deal about the excellent way the lottery staff all handle producing money for the lottery. The committee deals with the exceptions while the commission markets the product. They review contracts, deal with personnel issues, and disputes. At the present, they are dealing with a bingo operator who wants to operate the way he thinks it should be done. The committee members are diverse and bring uniqueness to the board meetings. **Ms. Edwards** introduced the new Director, **Jeff Andersen** and **Steve Woodall**, the Deputy Director for the lottery commission. The commission meets every other month. They are paid \$50.00 for attendance, they produce a lot of money and goodwill for the state, and want to continue to do so.

**Chairman McKenzie** asked the committee if they had any questions for

**Ms. Edwards.** **Senator Geddes** commented that he was glad to have her before the committee and her great service to the state of Idaho in the past and her willingness to continue. He continued and said on his way to the Capitol this morning, he heard an advertisement for the Power Ball and that it has exceeded two hundred million dollars. At the end of the ad, the Lottery Commission adds a disclaimer to "please play responsibly". **Senator Geddes** asked **Ms. Edwards** for her opinion regarding informing the public of this. **Ms. Edwards** replied that there is a fine line in marketing the product. She believes it is the responsibility of everyone and all individuals to be responsible. In her particular experience, she believes most people do play responsibly and she is not aware of excess and her philosophy is moderation. When a ticket is purchased it is for the contribution of education and public buildings. Idaho established the lottery in 1988, and the states around us as well as the native American population, have begun to earn extra money from this process. If Idaho had not established the fine quality of the lottery, she believes our money would be leaving the state. People of integrity are running it and are sensitive to excessive gambling.

**Chairman McKenzie** added that he would like to echo what **Pro Tem** stated and her willingness to serve on the commission. He advised **Ms. Edwards** that the committee would vote on her appointment at the next meeting.

The confirmation vote of **Governor Risch's** appointment of **Patricia J. Story** to the State Building Authority was before the committee. **Senator Little** made the motion to approve her appointment. **Senator Davis** seconded the motion and the motion carried by voice vote.

#### **RS16547**

**Tim Mason**, Administrator for Public Works, addressed the committee regarding RS16547. **Mr. Mason** stated that this RS is kind of a housekeeping issue with the advent of the restoration on the Capitol and expansion project. A search of the statutes revealed that changes needed to be made to three sections of Idaho Code to amend Title 67, chapters 4, 12, and 16. During the restoration the Capitol will be unoccupied for approximately three years. Those sections involve the location and organizational meeting of the legislature. The RS will change the location and provide that the treasurer will have a vault in the Capitol Building. The wording of the RS will allow for the vault to be in a temporary space. Additionally, it will allow for the furniture to be moved until the Capitol can be re-occupied. **Mr. Mason** requested that the committee print the RS.

**Senator Davis** stated that in section 2 of the bill, in the very last sentence, "Upon completion of this renovation, the provisions of sub-section (1) of this section shall apply.", he noticed in section 1 of the bill it states that the representatives of the house and the senate shall meet in the building in which the legislature will hold sessions. It doesn't necessarily indicate that upon completion that they will return to the Capitol. **Senator Davis** added that the Constitution does not refer to us as a legislature, but it refers to us as the house of representatives and the senate. He asked **Mr. Mason** if the language before printing would

address this, or if it was his intent to come back and modify it again upon completion of the renovation. **Mr. Mason** responded that he would defer that to **Joanna Guilfoxy**, Deputy Attorney General for the administration. **Ms. Guilfoxy** asked **Senator Davis** for clarification of the question. **Senator Davis** stated that nothing in the new section 1 provides that upon completion of the renovation of the Capitol Building, that there is a duty to hold the organizational session in the Capitol. **Ms. Guilfoxy** replied that she sees his point and that they were trying to provide some flexibility for where the legislature might hold the meetings during the renovation. She wasn't sure if there is a constitutional requirement that the legislature remain in the Capitol. **Chairman McKenzie** stated we just have to meet at the capital. In Section 8, Article 3 of the Constitution, it states they will meet at the capital of the state, which would be Boise. **Ms. Guilfoxy** added, yes that is correct.

**Senator Davis** continued and added that in the next sentence where it states "members-elect shall each receive the sum of twenty-five dollars (\$25.00)", we might want to delete some of that because we are not members-elect, and furthermore it is not the method of reimbursement any longer. That is in conflict with other statutes. **Senator Davis** suggested that the whole section be cleaned up to be in compliance with the other statutes and practices in the state. **Ms. Guilfoxy** responded that she would work with Legislative Services to make sure the changes are made.

**MOTION:** **Senator Davis** stated that rather than printing the RS he moved that the RS be returned to the sponsor, and he asked for the changes to be made. **Senator Stennett** seconded the motion. The motion carried by voice vote.

**MINUTES APPROVAL:** **Chairman McKenzie** stated the only other business before the committee is the approval of minutes for January 15. **Senator Malepeai** responded that he did not have an opportunity to read the minutes. **Senator Geddes** stated that he arrived early today for the committee meeting. He had read the minutes and added that they very accurately reflect the meeting. He moved to approve the minutes as written and **Senator Little** seconded the motion to approve them. The motion carried by voice vote.

**ADJOURN:** There being no further business before the committee, **Chairman McKenzie** adjourned the meeting at 8:22 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** January 24, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Stennett, and Malepei.

**MEMBERS ABSENT/ EXCUSED:** Senator Little.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:01 a.m.

**GUBERNATORIAL APPOINTMENTS:** **Chairman McKenzie** introduced **Scott McLeod** regarding his appointment to the Idaho Lottery Commission. **Mr. McLeod** addressed the committee and stated that he is from Lewis County where **Senator Stegner** is from. He is a farmer and added that he used to do business with the Stegners when they were in the grain business. **Mr. McLeod** continued and said that he is very honored to have this appointment from the Governor.

**Chairman McKenzie** stated that the lottery commission has a dual role in promoting as well as responsible playing. He asked **Mr. McLeod** how he balances the two. **Mr. McLeod** replied that he has been to one meeting and he is of the opinion that the commission is concerned and enforces the statutes regarding this. New members receive a copy of the statutes and he was surprised by some of them. They do a great job informing the public and in addition they are trying to provide a dividend to the public schools and building fund. He added that he lives in an area that borders the state of Washington, and if Idaho doesn't provide some of these things, the people will cross the river to look for it.

**Senator Geddes** thanked **Mr. McLeod** for his willingness to serve on the commission. He too grew up with a background in farming and he believes that farmers are great risk takers, so he believes that he will find satisfaction and enjoyment on the commission. **Senator Geddes** added that he has a constituent that serves on the Bingo Raffle Board. He always comments that bingo just isn't as glamorous as the lottery or power ball and sometimes they get left behind. **Senator Geddes** said he encourages the commission to take care of that part of the lottery. The state has a lot of senior citizens who look for entertainment and socialization with regard to playing bingo.

**Senator Stegner** commented that **Mr. McLeod** was a candidate for the legislature during the recent election. He has a fine reputation and we are lucky to have him to contribute his time to the commission. **Senator Stegner** stated as you know, we have a growing Indian casino in that region. It is very prosperous, employs a lot of people, it is expanding and destined to be a significant economic activity. But it is not without some criticism. In addition, there is some tension between the Nez Perce tribe in the region and the lottery commission regarding the location and use of the lotto machines. **Senator Stegner** asked **Mr. McLeod** if he was familiar with the controversy. **Mr. McLeod** answered that he has some knowledge of it. The county he lives in does not participate in the Idaho lottery because it is on the Nez Perce reservation. There is an issue between the tribe and the merchants and they would like to see the lottery return. He continued and stated that the lottery is nothing like the tribal gaming and the Indian casino has caused some problems in the Lewiston area.

**Chairman McKenzie** asked if there were any more questions from the committee. He advised **Mr. McLeod** that the typical practice is to vote on his appointment at the next committee meeting, and he thanked him for his time.

The confirmation vote of Lydia Justice-Edwards was before the committee. **Senator Stegner** moved to confirm **Ms. Edwards** to the Idaho Lottery Commission and **Senator Malepeai** seconded the motion. There was no discussion and the motion carried by **voice vote**.

**S1031**

**Chairman McKenzie** stated that **S1031** was referred to State Affairs on the floor. It is more appropriate for the Resource and Environment Committee. After discussion with the Chairman of that committee, it is our intent to refer it to them. He deferred to **Senator Darrington** for the procedure in returning the bill to them. **Senator Darrington** stated that the correct procedure is for the committee to report the bill back down to the floor.

**MOTION:**

**Senator Darrington** made the motion to send **S1031** to the floor without recommendation. **Senator Stegner** seconded the motion and it carried by **voice vote** to be returned to the Resource and Environment Committee.

**S1021**

**Ted Roper** from the Department of Administration addressed the committee regarding **S1021**. He stated that last year this bill was amended to streamline the process for assessments and processing them through the Industrial Commission. In the process, an error in the date on paragraph 3 of statute 72-327 was made indicating that March 31 is the date when the insurance carriers should report the amounts of income benefits paid by their company. The department is requesting that the date be changed to March 3. It is basically a typographical error that was not caught.

**Chairman McKenzie** commented that this is the smallest change he has seen in a bill.

**MOTION:** **Senator Stegner** made a motion to send **S1021** to the floor with a do pass recommendation. The motion was seconded by **Senator Jorgenson**. There being no further discussion, the motion carried by **voice vote**.

**MINUTES:** The minutes for January 19, were read and approved by **Senator Malepeai**.

**MOTION:** **Senator Malepeai** made the motion to accept them as written. **Senator Stegner** seconded the motion and the motion carried by **voice vote**.

**MOTION:** **Senator Stegner** reviewed the minutes for January 17, and he moved that they be approved as written. **Senator Geddes** seconded the motion. The motion carried by **voice vote** to accept the minutes of January 17.

**ADJOURN:** There being no further business before the committee, **Chairman McKenzie** adjourned the meeting at 8:15 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary



## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** January 26, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:02 a.m.

**GUBERNATORIAL APPOINTMENTS:** **Roy E. Decker** was welcomed to the committee meeting by **Chairman McKenzie** regarding his appointment to the Bingo-Raffle Advisory Board. **Mr. Decker** addressed the committee and stated that he is a Vietnam veteran and works for A&B Irrigation. He said he was appointed last year to the board, he has learned a lot and that he hopes to contribute to the board. **Chairman McKenzie** asked **Mr. Decker** if he had any related background such as working bingo raffles or similar things. **Mr. Decker** answered that his local veteran post has bingo every Saturday night and that is why he probably was appointed to the board. He continued and stated that he is the bingo chairman and that he does all of the paperwork. **Chairman McKenzie** asked **Mr. Decker** if he has much interaction with the board or the lottery staff. **Mr. Decker** answered that yes he does. He has assisted other facilities around Burley as well. His post was doing a few things wrong and they changed it immediately. He added that he enjoys working the board.

**Chairman McKenzie** asked if there were other questions from the committee. **Senator Geddes** stated that he has heard some concerns that the Bingo Raffle Board may not be receiving their fair share of the revenue to manage bingo. He asked **Mr. Decker** if he sees that as a problem and if there is something the legislature might do to assist them. **Mr. Decker** replied that the commission allows a pay out up to 70% and they can keep 30%. His post pays out a 60 to 40 percent ratio, and everyone else around them does the same. **Senator Geddes** asked **Mr. Decker** if he feels that sometimes the lottery commission doesn't listen to the concerns of the bingo advisory board. **Mr. Decker** responded that since he has been serving on the board that they do listen to what they have to say.

**Chairman McKenzie** asked for further questions, there were none. He thanked **Mr. Decker** for his time and advised him that the committee would vote on his appointment at the next meeting.

**MOTION:** The confirmation vote of **Scott McLeod** was before the committee. **Senator Stennett** moved to confirm **Mr. McLeod's** appointment to the Idaho Lottery Commission. **Senator Jorgenson** seconded the motion. The motion carried by **voice vote**.

**RS16575C1** **Ron Crane**, from the State Treasurer's Office addressed the committee regarding **RS16575C1**. **Mr. Crane** stated this RS has nothing to do with the construction of the State Capitol. When the legislature dealt with the school funding lawsuit, the school bond guarantee fund was created. This allows school districts to access the state's triple AAA credit rating for the issuance of school district bonds. There are three steps to the process: 1) an intercept mechanism, where the state treasurer steps in and intercepts any funds that flow from the state to the school district, 2) the guarantee of the sales tax, and 3) the public school endowment fund cash pledge of 200 million dollars. The endowment fund would then issue a bond. Initially they leveraged that 200 million dollar cash pledge twice for 400 million dollars. It was maxed out and raised to three times the amount which is 600 million dollars. It too has been maxed out. **Mr. Crane** continued and stated it has been a very successful program, but one thing that was not anticipated was that large school districts also had access to the guarantee as well. When approximately 520 million dollars was reached, a large school district was issued a 152 million dollar bond levy. They took the remainder of the bond and this pushed them over their capacity. The very next day after their application was submitted, a small school district from southeast Idaho had predicated their bond levy, and there were essentially no funds available to assist them. This is not the intent of the legislature, but it is what happened. Currently they are at 612 million dollars which is above what they are guaranteeing. The Treasurer's Office is seeking to raise the capacity to 800 million dollars. The rating agencies have agreed that the AAA rating will remain. There is another provision on page 3 which deals with the larger school districts accessing the majority of the capacity. They have placed a 20 million dollar cap that any school district can access. Based on the 5% market capacity that the school districts have, this would cover 77 school districts in the state. They believe they are reaching out to the vast majority that need to use this program. Additionally, school districts can consolidate and essentially have a 40 million dollar capacity.

**MOTION:** **Senator Little** made a motion to print **RS16575C1** and **Senator Geddes** seconded the motion. The motion carried by **voice vote**.

**RS16668** **Senator Stennett** addressed the committee regarding **RS16668** and stated that this RS is basically to change the number of acres under which a deed of trust can be used for financing a mortgage. **Senator Stennett** added that he has run this by Realtors and bankers and that a deed of trust is a more recognizable mechanism in financing a mortgage. He believes this would offer more financing options for both buyers and sellers.

**Senator Davis** commented that this would make for one of the largest number of acres in the nation. When you get up to 100 acres he is not certain that he wants to allow non-judicial foreclosures. He suggested to **Senator Stennett** that they could maybe have some additional discussions over the next few days in that regard.

**MOTION:**

**Senator Davis** moved to print **RS16668**. **Senator Geddes** seconded the motion and the motion was carried by **voice vote**.

**S1044**

Senate bill **S1044** was presented to the committee by **Senator Schroeder**. **Senator Schroeder** stated that he believes everyone is familiar with the intern program and one of the problems the interns deal with is expenses while they are here. If they are college students they receive credit. The program is administered through Legislative Services and it allows college students to interface with the legislature and the public. What this bill will do is provide some living expenses for the interns and hopefully they can get more interns.

**Chairman McKenzie** asked if there were any questions for **Senator Schroeder**. **Senator Geddes** asked if the college students receive credit for their efforts as interns. **Senator Schroeder** answered yes they do receive credit.

**Chairman McKenzie** asked if this meant that the Legislative Council would be hiring the intern as an employee, or is the intent that they would simply provide a scholarship. **Senator Schroeder** responded that it was his intent that Legislative Services would provide 10 scholarships of \$1,500 each.

**Senator Stegner** added that he believed the question was whether or not they would be considered employees of the state of Idaho. He asked **Senator Schroeder** if taxes would be deducted. **Senator Schroeder** answered that his intent is that they receive a \$1,500 scholarship and that is what he asked the bill writers to do. **Senator Stegner** stated that he believes the internship program is for credits to serve time at the legislature. There are other interns here in the Governor's office and he wonders if the state provides a stipend to them. **Senator Schroeder** answered that he doesn't know if the state provides a stipend to them, but he will find out.

**Senator Geddes** commented that as he looks at the Statement of Purpose versus the language in the bill, it appears to him that there is a difference between hiring and compensating versus scholarships. He asked if **Senator Schroeder** had checked that out and if they would have to have payroll deductions. **Senator Schroeder** stated that it was his intent to give them scholarships. **Senator Geddes** added that he believed there would be some withholding and maybe there is another way to do this. **Senator Schroeder** replied that he would find out and that he just assumed they would be given \$1,500.

**Senator Stegner** asked **Senator Schroeder** to find out if other levels of state government are doing this.

Senator Davis stated that he was an intern many years ago in Utah for the House of Representatives. He got something out this experience but it was not money. He received credit and he feels this is the way it should be. **Senator Schroeder** added that the reason for this bill is to provide that experience to more people and help cover some of their expenses. This applies to the pages as well. They are compensated for their services. **Senator Darrington** commented that when an intern serves as a congressional internship in D.C., they receive credits and they are paid. **Senator Geddes** added that another concern he has is that when we move to the Capitol annex, it will be very crowded and quite possibly there will be cutbacks in staff. There just won't be enough space to accommodate everyone. Maybe this should be looked at again when we have larger accommodations.

**MOTION:** **Senator Stegner** made a motion to hold **S1044** for one week. **Senator Stennett** seconded the motion and the motion carried by voice vote to hold **S1044**.

**ADJOURN:** There being no further business before the committee, **Chairman McKenzie** adjourned the meeting at 8:33 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** January 29, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:01 a.m.

**H0001** **Chairman McKenzie** introduced **Oliver Chase**, the Management Assistant from the Division of Veterans Services. **Mr. Chase** presented **H 0001** and stated that this bill makes a change to Title 65, Chapter 2, Section 202, Paragraph 4, and it states that a veterans cemetery director is a non-classified employee. This will provide that the position will be in the same classification as the three home directors and the Supervisor of the Office of Veterans Advocacy. This does not affect the current incumbency position and it will not affect anyone until such time as the incumbent retires.

**Chairman McKenzie** asked the committee for any questions regarding the changes.

**MOTION:** **Senator Darrington** made a motion to send **H0001** to the floor with a **do pass** recommendation. **Senator Jorgenson** seconded the motion and it carried by **voice vote**.

**RS16547C1** **Tim Mason**, Administrator for the Division of Public Works, addressed the committee regarding **RS16547C1**. **Mr. Mason** stated this makes three changes to Title 67, Chapters 4, 12, and 16. The changes are necessary due to the relocation of everyone during the construction and renovation of the Capitol Building. Statute requires that the Treasurer and all funds are to be in the vault in the Capitol Building. The change allows for relocation of the Treasurer and the vault. The furniture that is supposed to remain in the Capitol can also be removed. Finally, the newly elected members of the House of Representatives and the Senate shall meet at the capital of Boise, and this will allow for them to meet wherever the legislature will be relocated to. Additionally, **Senator Davis** made a request to change the compensation language to match current code.

**MOTION:** **Senator Davis** moved to print **RS16547C1** and **Senator Little** seconded the motion. The motion carried by **voice vote** to print **RS16547C1**.

**RS16603** **Chairman McKenzie** introduced **Mike Nugent** from Legislative Services. **Mr. Nugent** stated that this bill is something that comes before the legislature every year. It is called a codifier's bill and the purpose of this bill is to make various codifier corrections to the Idaho Code.

**MOTION:** **Senator Davis** made the motion to print **RS16603**. **Senator Geddes** seconded the motion. There being no further discussion on the motion, it carried by **voice vote**.

**RS16561** **Senator Little** presented **RS16561** to the committee. He stated that **Andrew Potter** from the Endowment Fund is here as well regarding this. Currently the code does not comply with the Constitution with regard to Article 9, Section 4. This bill will correct the distribution of funds received as estates for which no heirs can be located and the dividends were paid to the general fund. The section requires that all dividends should be paid to the Public School Permanent Endowment Fund and this bill will correct that and put it into code.

**MOTION:** **Senator Jorgenson** moved to print **RS16561** and it was seconded by **Senator Malepeai**. The motion carried by **voice vote**.

**GUBERNATORIAL APPOINTMENT:** The confirmation vote of **Roy E. Decker** to the Bingo-Raffle Advisory Board was before the committee.

**MOTION:** **Senator Jorgenson** made the motion to confirm the appointment of **Roy E. Decker**. **Senator Malepeai** seconded the motion. The motion carried by **voice vote** to confirm the appointment of **Roy E. Decker**.

**MINUTES:** **Senator Jorgenson** stated that he had read the minutes of January 24.

**MOTION:** **Senator Jorgenson** moved they be accepted as written with one correction as to the spelling of his name on page 3. **Senator Darrington** seconded the motion to approve the minutes of January 24. The motion carried by **voice vote**.

**ADJOURN:** There being no further business before the committee, **Chairman McKenzie** adjourned the meeting at 8:11 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** January 31, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** Vice Chairman Jorgenson.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:03 a.m.

**GUBERNATORIAL APPOINTMENT:** **Wendy Lively** addressed the committee regarding her appointment to the Bingo-Raffle Advisory Board. **Ms. Lively** stated that she is from Idaho Falls, and she and her husband Alan run the Fraternal Order of Eagles charitable bingo. It is the second largest charitable bingo in the state of Idaho. They have been operating the bingo for seven years and as a result bingo is a lot more popular in the area. Their sales have increased from \$97,000 to approximately \$490,000. The Idaho Lottery Commission approached her to be on the board. Initially she wasn't quite aware of what it entailed and she is learning as she goes along.

**Chairman McKenzie** asked **Ms. Lively** what she attributed her success to regarding the increase in sales. **Ms. Lively** responded that she feels the success is due to a number of things. It is a social event for many and they need something to do when their children move away, or sometimes due to the loss of a spouse. They treat everyone like family no matter who they are or how much they spend. It is a mutual respect that has been earned over the years. Without bingo they wouldn't have much to do to keep themselves active. It is not just gambling to them, but the socialization.

**Senator Malepeai** commented that earlier **Ms. Lively** mentioned bingo as being a charitable event. He asked her to comment on that. **Ms. Lively** stated that charitable bingo is raising money for charity and a percentage is contributed to them. Additionally, they are the only bingo that she is aware of that pays out twenty-five percent to charities. The minimum contribution is twenty percent.

**Senator Stegner** asked **Ms. Lively** how she initially got started with the bingo at the Eagles. **Ms. Lively** replied that her in-laws were members of the Fraternal Order of Eagles in Idaho Falls. They were looking for

someone to operate the charitable bingo, as they were not having much success. Although she is the manager, her husband assists her and it has been one of the best things that has happened to them. **Senator Stegner** asked her if she is paid by the FOE (Fraternal Order of Eagles) to run the bingo. **Ms. Lively** answered that she is a paid employee of FOE, but her husband is not. **Senator Stegner** asked if she was involved in the decision as to what charities receive the money. **Ms. Lively** replied no, that she is not involved because the FOE holds the license for that and a non-profit charitable organization must hold one. When the time comes to divide out the money, she writes a check to the FOE and they distribute it to seven different charities. **Senator Stegner** asked **Ms. Lively** if she knew who received the money. **Ms. Lively** answered that diabetes, domestic violence, and breast cancer are among the seven, but she could obtain a list for the committee if necessary. **Senator Stegner** asked **Ms. Lively** if the twenty-five percent was paid after expenses. **Ms. Lively** responded no, it is twenty-five percent of the gross sales. Last year approximately \$124,000 was donated to charity. **Senator Stegner** wanted to know the hours of operation and **Ms. Lively** stated that bingo is operated on three days of the week. It is on Sunday, Monday, and Friday for approximately two hours, but they can hold them for up to eight hours.

There were no further questions for **Ms. Lively**. **Chairman McKenzie** thanked **Ms. Lively** for her time and advised her that her appointment would be voted on at the next committee meeting.

**H0002**

**Chairman McKenzie** introduced **Dyke Nally**, Superintendent of the Idaho Liquor Dispensary. **Mr. Nally** stated that this agency is one of a very few whose officers and employees are prohibited from engaging in certain political activities. Idaho Code, Section 23-213, prohibits any officer or employee of the Dispensary from serving on or being a member of any committee of any political party, or actively engaging in or contributing to partisan primary or election campaigns. The Dispensary proposes that this code be repealed.

**Senator Davis** asked **Mr. Nally** if he had asked for the Attorney General's opinion on this statute if it violates freedom of association or freedom of speech. **Mr. Nally** replied yes he had. Initially they thought it could be unconstitutional, but a Supreme Court ruling declared that it was not. He added that the origin of this legislation was in 1939 and was probably derived from the times when the polling places were in saloons.

**MOTION:**

**Senator Stennett** made a motion to send **H0002** to the floor with a **do pass** recommendation. **Senator Stegner** seconded the motion and it carried by **voice vote**.

**S1053**

**Ron Crane**, the State Treasurer addressed the committee regarding **S1053**. **Mr. Crane** stated this bill will raise the cap for the school bond guarantee program. The cap is currently at three times the 200 million dollar cash pledge from the endowment. They have passed that cap and are no longer able to accept any more school districts under this particular program. They are able to obtain a triple A rating because no school district has ever defaulted, but should there be one, the State Treasurer



would intercept any funds that flow from the state to the school district. Secondly, they would use the sales tax if it was available and lastly, the cash pledge from the endowment fund. The administrator of the fund would issue a bond to make it whole. That bond would be issued at a rate of ten percent plus the average earnings on the endowment fund for the previous four quarters. They are requesting that the cap be raised to four times the cash pledge. The additional 200 million will bring it to 800 million which they believe is the most it can be guaranteed without increasing the cash pledge itself. In addition it will most likely buy them two to three years of time. The state is growing very rapidly, more schools will need to be constructed. This will also allow the endowment fund to grow. If they asked for a higher capacity, the rating would go to a double A and the program would not be as effective, and it would negatively impact the school districts that are already a part of the guarantee program. The 20 million dollar cap is necessary to help the vast majority of the smaller school districts. It also prevents the larger school districts from coming in and using all the capacity.

**Chairman McKenzie** asked if there were any objections to this from any of the larger school districts as it relates to the cap. **Mr. Crane** answered no he had not heard any. **Senator Davis** commented that he believed **Mr. Crane** was trying to be sensitive to consolidation but he has concerns regarding the uniformity standard. **Mr. Crane** replied he wasn't sure how to respond to that. **Chairman McKenzie** stated that if **Senator Davis** was referring to the uniformity requirement article 9, section 1, the Idaho Supreme Court provides that it refers to uniformity of curriculum and not necessarily to funding. **Senator Davis** commented that he is referring to the settlement that he believed happened in 1994, and he was hoping **Mr. Crane** could educate him in that regard, but maybe his questions are better suited for the superintendent.

**Senator Stegner** stated that it seems fairly logical to put a cap on this, but he is curious as to how they arrived at the 20 million dollar figure. **Mr. Crane** deferred to **Eric Heringer** from the Seattle Northwest Securities Corporation to answer that question.

**Mr. Heringer** replied that they arrived at that figure by looking at a variety of factors. There is a medium sized school district with a bond issue that is starting to approach that 20 million dollar range. They believed that figure would be useful because most smaller districts do not have the debt capacity to issue much more than that. **Mr. Heringer** added that he doesn't think it is a perfect number because it will not work for everyone. But districts that are subject to the cap would receive some benefit from the program. During the next three to five years he believes the 200 million would be sustainable and provide a lot of benefit to the school districts. They tried to craft something to give to everyone, and the smaller districts probably benefit the most because they don't have the debt capacity.

**Mr. Heringer** stated that Twin Falls was capped. They passed a bond and bought bond insurance and they were still able to receive a triple A rating. The real cost to them was the insurance. A smaller district cannot

get cost effective bond insurance because their tax base is too small. There is usually a minimum on the tax base that they will insure, of if they will insure them, the premium will be too high.

**Senator Little** asked how much of the 600 million dollars is remaining. **Mr. Heringer** answered he did not have a specific number. **Senator Little** asked if he knows what is pending. **Mr. Heringer** replied that there are at least eight bond issues that will be voted on between now and the end of the year. **Senator Little** asked if there is a risk that half of the 200 million will disappear on July 2. **Mr. Heringer** answered there is that risk, but it is subject to how generous the voters are feeling, and he is not aware of a lot of refinancing. **Senator Little** added that he spoke with **Treasurer Crane** earlier and suggested having this go towards the school districts that are paying the higher rate. **Treasurer Crane** indicated that he has an issue with the bond rating.

**Senator Little** stated he wanted to spend a little more time investigating this. Some districts will benefit more than others and maybe it should go to the districts who are more in need.

**Senator Davis** commented that he would rather hold the bill here in committee so we can do our due diligence. **Senator Little** added that is his preference. There are developments in Boise for one hundred twenty new elementary schools, thirty-three junior high schools, and seventeen high schools. The 200 million will be eaten up by these projects. **Mr. Crane** stated that Boise is already maxed out so they cannot access this. **Senator Davis** stated there is a date of July 1, 2007 on page 3 of the bill, and as he understands it, that is the break in time for those who have already maxed out before that date. **Mr. Crane** replied that the raising of the cap will not take place until July 1, and if a school district has money on the books under the guarantee, they will not qualify.

**Senator Malepeai** asked if there was anyone here from the education committee to speak on this issue.

**Phil Homer**, from the School Administrator Association stated they have been caught short on this bill, but he said he would try and answer **Senator Davis'** question. **Mr. Homer** continued and said that in 1990 he was involved in the lawsuit on equity while he was superintendent of a school district. The Pro Tem and Speaker wanted to solve the issue and as a result **S1560** was passed. Blaine County paid eighty percent of their school district with local property taxes and twenty percent from the state. Most other districts within the state paid twenty percent from property taxes and received eighty percent from the state. All the big districts that were involved in the lawsuit then dropped their suit and the equity issue was resolved for classrooms.

**Senator Davis** said as he sees it the consolidation of school districts is probably not going to be a problem. **Mr. Homer** replied that is correct.

**MOTION:**            **Senator Little** made a motion to hold **S1053** until Wednesday, February 7. **Senator Stegner** seconded the motion and the motion carried by **voice vote**.

**ADJOURN:**        There being no further business before the committee, **Chairman McKenzie** adjourned the meeting at 8:52 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** February 2, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:03 a.m.

**GUBERNATORIAL APPOINTMENT:** **David Keyes**, who was appointed to the Idaho Lottery Commission addressed the committee. **Mr. Keyes** stated that he is a publisher of a daily newspaper in Sandpoint, Idaho. Two months ago the Governor contacted him to fill a vacancy on the commission and he is honored to represent the commission.

**Senator Keough** stated that she supports the appointment of **David Keyes**. She has known him since 1988 and she believes that he will bring a great business background to serve on the commission.

**Representative Eskridge** reiterated what **Senator Keough** said and added that additionally, **Mr. Keyes** is involved with various activities in their district such as the Historical Society. He has also been a member of the Bonner County Transportation team and many other civic activities within the community.

**Senator Broadword** addressed the committee and said that she first met **David Keyes** about twenty years ago when they served as charter members of the Sandpoint Jaycee's Club. They have a great working relationship as well as a friendship. Both **Mr. Keyes** and his wife are very active within the community. **Senator Broadword** stated that she highly recommends **Mr. Keyes** for the appointment.

**Chairman McKenzie** asked **Mr. Keyes** if he had the opportunity to attend any of the lottery commission meetings. **Mr. Keyes** responded that yes, he has attended one meeting. **Chairman McKenzie** asked if he had any interaction with the lottery commission before his appointment. **Mr. Keyes** answered none whatsoever, but only when purchasing an occasional lottery ticket.

**Chairman McKenzie** thanked **Mr. Keyes** for his time and advised him that the committee would vote on his appointment at the next meeting.

The confirmation vote of **Wendy Lively** to the Bingo-Raffle Advisory Board was before the committee.

**MOTION:** **Senator Malepeai** moved to appoint **Ms. Lively** to the board and **Senator Jorgenson** seconded the motion. There was no discussion on the motion and it carried by **voice vote**.

**RS16822C1** **Senator Fulcher** presented **RS16822C1** to the committee and stated that this bill is regarding parental consent for abortion. The 2005 version of this bill is under appeal. He continued and said that there are two primary considerations for this bill. First, the content and it is probably the simpler of the two. An un-emancipated minor must receive parental consent prior to receiving an abortion. **Senator Fulcher** stated that the other consideration is the constitutionality of this and will it be upheld under judicial scrutiny. Wherever possible they have utilized language that has already been tested in court. Primarily it is the Arizona language. A number of attorneys have worked on this, and the Attorney General's Office has provided guidance. **Senator Fulcher** added that the most important reason he is introducing this, is that we currently have no active parental consent law in the state of Idaho. Secondly, if this is to pass, he believes that there is a good possibility of mooted the existing appeal and putting to rest that issue. Time, effort and money will be saved for that legal process.

**Senator Davis** asked **Senator Fulcher** if he had asked the Attorney General to weigh in on this issue, and if there is a great deal of confidence in it before this is printed. **Chairman McKenzie** asked if this could be deferred to the Attorney General. **Bill Von Tagen**, Deputy Attorney General, addressed the committee and stated that this issue had been looked at last year. All the issues from last year have been resolved, there are no guarantees, but they have the highest degree of confidence in this language.

**Senator Davis** followed up and stated that he has seen prior correspondence consistent with what **Mr. Von Tagen** just indicated. But this is different from what was in the letter. He understands that the differences reflected in this particular RS have no impact on the opinion that he previously rendered. He asked **Mr. Von Tagen** if that was correct. **Mr. Von Tagen** answered that yes, it is. There were some minor issues identified in the previous RS and that they have been resolved. **Senator Davis** commented that previously they have passed and signed into law legislation that is on appeal before the 9<sup>th</sup> circuit. The most significant hesitation is that maybe the committee was premature in weighing in on this last year. **Senator Davis** asked **Mr. Von Tagen** to explain what the status of the case is and what impact this new RS may have on the appeal. **Mr. Von Tagen** asked the committee if he could turn that question over to **Jeremy Chou** who is handling that appeal for the state.

**Mr. Chou** stated that the legislation was challenged by Planned

Parenthood and the Judge declared the entire legislation unconstitutional. On appeal they have appealed one issue and that is severance. The Judge found that the reporting requirements as well as the posting of the emergency provision was unconstitutional. He refused to sever those provisions. The Attorney General argued that the heart of the legislation could have been kept while keeping the unconstitutional provision separate. During the appeal, the Supreme Court decision entitled *Planned Parenthood v. Ayotte*, specifically addressed the severance issue. The 9<sup>th</sup> Circuit has the benefit of that Supreme Court precedent now and it is being considered. There is still a risk and they argued it in October. The 9<sup>th</sup> Circuit has not made a decision. This proposed legislation carries with it the same substance that is on appeal except it has one benefit. The passage of this legislation provides the state with finality. **Mr. Chou** added with respect to the appeal, they don't know what the 9<sup>th</sup> Circuit will decide. It is the same panel that heard the parental consent appeal in 2003. They may find something to be problematic with the current legislation.

**Senator Davis** asked **Mr. Chou** if this legislation were to pass and the Governor signed it into law, does he believe that the appeal would be moot. **Mr. Chou** answered yes he does. It would render the appeal moot. **Senator Davis** asked what the Attorney General's position is on this should this become law before a decision is made from the 9<sup>th</sup> Circuit. Also, would you notify the court of the modification and ask for the appeal to be dismissed. **Mr. Chou** replied that is correct and that they are obligated to do so.

**Senator Stennett** stated he has a concern with the fiscal note because an enormous amount of money has been spent litigating this. He asked **Senator Fulcher** what has been spent to date defending this. **Senator Fulcher** replied he is not sure what the legal costs and fees are. If we do nothing, in his opinion, we will continue to spend money in the appeal process. This bill will render the appeal moot and that is what he was trying to do in the fiscal note. **Senator Stennett** asked if he could direct the question to **Mr. Von Tagen**. **Senator Stennett** asked **Mr. Von Tagen** what savings would there be today in order to circumvent what has been invested so far on the appeal, and additionally how much money has been spent to date. **Mr. Von Tagen** answered that he is not certain of the exact figures. They do have that information and he can provide that to the committee. Potentially there are some savings if the 9<sup>th</sup> Circuit remands this to the District Court. Again, they cannot make any guarantees in the area of law and certainly not abortion law.

**Senator Stennett** commented that every year he hears this is the bill that will get the job done. He asked what is the difference in this piece of legislation versus what was before. **Mr. Von Tagen** replied that this approach follows what has been done in Arizona and Ohio, and they have not deviated from what has been upheld in those cases.

**Senator Fulcher** added that he appreciates the questions and he believes they have focused on the reporting requirements. There were no further questions.

**MOTION:** **Senator Little** moved to print **RS16822C1** and **Senator Jorgenson** seconded the motion. **Senator Stennett** stated that he will support the motion to print in order to have a full hearing on the bill. The motion carried by **voice vote**.

**S1044** **Senator Schroeder** addressed the committee and substituted **S1044** with a new RS. **Senator Schroeder** stated that he decided to present a new RS to accommodate the committee.

**Senator Davis** asked if we are having a hearing on a bill, or a print hearing on a new RS. **Chairman McKenzie** answered that **Senator Schroeder** came to him after the original RS was printed and because there were some changes made, he would accommodate him in that regard and allow him to present a new RS.

**Senator Davis** asked if the current legislation should be sent to the fourteenth order for amendment, or is it the intent of the sponsor to have a print hearing on a new RS and not act on **S1044**.

**Senator Schroeder** replied that he has discarded the original bill and wrote a new RS with the changes that the committee recommended. **Senator Stegner** stated the committee has the bill and we cannot just give it back to the sponsor. It is on the agenda today and we either need to hold **S1044** in committee, or ask that **S1044** be returned to the sponsor. **Senator Davis** added that the bill belongs to the committee and the senate. It would have to be held in committee or removed from the calendar.

**MOTION:** **Senator Stegner** made the motion to hold **S1044** in committee. **Senator Jorgenson** seconded the motion. The motion carried by **voice vote**.

**RS16876** **Senator Schroeder** presented **RS16876** and stated this would provide for ten scholarships up to \$1,500 each, for students of Idaho's post secondary institutions. It would be taxable income for them and that the interns will work on public policy issues. **Senator Schroeder** added that he believes this a wonderful opportunity for them to see how government operates. On the national level interns are paid and in addition they receive college credit.

**MOTION:** **Senator Jorgenson** moved to print **RS16876**. **Senator Malepeai** seconded the motion.

**Senator Davis** stated that he still has one more question. He asked if the Legislative Council is currently prohibited from doing this right now. **Senator Schroeder** answered that they coordinate the program and he is not aware of any stipends being paid.

**Matt Lovell**, who represents Idaho State University, stated that when he was an intern the process was a wonderful experience and added that it is great to put on a resume. He read a brief statement from Emily Davis, the lobbyist from the University of Idaho, regarding the support of the students from the university regarding this bill.

**Senator Geddes** asked if he was an intern and a lobbyist. **Mr. Lovell** answered yes, he is getting internship credits and he is paid by the Association of Students.

There were no other questions or discussion. **Chairman McKenzie** stated the motion to print the RS is before us. The motion carried by **voice vote** to print **RS16876**.

## **S1037**

**Senator Langhorst** presented **S1037** which is called the Idaho Fair Election Act. He stated that the purpose of this bill is to increase voter participation, to strengthen public confidence in the democratic process, to encourage candidates to spend more time communicating with their constituents, and to focus on their jobs rather than raising money.

**Senator Davis** asked **Senator Langhorst** if that is what he spends his time doing. **Senator Langhorst** replied that he believes everyone spends time raising money and that is a reality. **Senator Davis** stated that he didn't agree with him. **Senator Langhorst** added that there is another element and that is the perception that we do.

**Senator Stegner** stated that in the first section of the bill it violates the principles of one man one vote. Additionally, it states that it violates the rights of all citizens to equal and meaningful participation of the democratic process. **Senator Stegner** added that he does not believe that, and he finds it difficult to pass this if that is the opinion of the legislature, because it is not his opinion. **Senator Langhorst** replied that it is his prerogative to vote against this bill, and that there are a number of people here today that would like you to know how they feel.

**Senator Stegner** stated that he believes he is laying the groundwork for what he hopes will be a discussion about the contents of this legislation. He asked **Senator Langhorst** where this originated and who wrote it. **Senator Langhorst** answered that this is a part of campaigns that have been going on all over the country. They are not pioneering this, it is something that is in place in Arizona and Maine along with several other states.

**Senator Langhorst** laid out the basics of the bill, and stated that during a qualifying period a candidate would declare their intention to be a public financed candidate. They would raise seed money and the goal would be to raise the required number of qualifying contributions. Any number of qualifying contributions can be made to the fund. Under the current system the money goes direct to the campaign fund.

**Senator Davis** asked **Senator Langhorst** if he thinks it is appropriate for the taxpayers of Idaho to fund his election to the Idaho State Senate. **Senator Langhorst** replied that the fund is not set up that way, but if you look at this building or city hall, all the things we do are paid for by the taxpayers. **Senator Davis** asked if he was suggesting that the taxpayers of the state should have to pay for him to run for the Idaho State Senate. **Senator Langhorst** answered yes I am.



**Senator Langhorst** commented that when Arizona first passed this legislation it was supported by 51% of the voters. Four years later the poll indicated that 65% approved, and the most recent poll indicates that only 18% of Arizona citizens oppose the public campaign method.

**TESTIMONY:**

Testimony was limited due to time constraints. If written testimony was provided to the committee, it will be on file in the committee office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B). The following individuals testified in support of **S1037**.

Jim Hansen, Executive Director, United Vision for Idaho  
Reverend Betty Luginbill, retired citizen  
Gary Allen, Attorney  
Gloria Munoz, Idaho Hispanic Caucus  
Dr. Calvin Lemon, retired citizen  
Reverend Ed Keener, Interfaith Alliance of Idaho  
Bill Whitaker, National Association of Social Workers

**Senator Langhorst** summed up and stated we are talking about a system and we are all subject within it. The taxpayers are already paying for this, they just don't own it. It is not about taxpayers paying for the election system, it is about taking it back and owning the system.

**MOTION:**

**Senator Jorgensen** made a motion to hold **S1037** in committee and **Senator Stegner** seconded the motion. **Senator Stennett** made a substitute motion to send **S1037** to the floor with a **do pass** recommendation. **Senator Malepeai** seconded the motion.

A roll call vote on the substitute motion of **S1037** was requested by **Senator Stennett**.

Senator Darrington - Nay  
Senator Geddes - Nay  
Senator Davis - Nay  
Senator Stegner - Nay  
Senator Little - Nay  
Senator Jorgenson - Nay  
Senator Stennett - Aye  
Senator Malepeai - Aye  
Senator McKenzie - Nay  
The substitute **motion failed**.

The roll call vote on the **original motion** was taken.

Senator Darrington - Aye  
Senator Geddes - Aye  
Senator Davis - Aye  
Senator Stegner - Aye  
Senator Little - Aye  
Senator Jorgenson - Aye  
Senator Stennett - Nay  
Senator Malepeai - Nay  
Senator McKenzie - Aye

The **motion passed** to hold **S1037** in committee.

**S1038**

**Senator Kelly** addressed the committee regarding **S1038**. She stated that this bill is a personal finance disclosure bill that was modeled after language that is in Arizona statute. It will provide accountability and does not change the status quo with regard to conflict of interest, or what a candidate can or cannot do as part of their public service. Forty seven states have some form of personal finance disclosure for elected officials. Some basic deadlines would require an annual filing by elected officials and candidates would have to file within thirty days. The voters would have public access to this information. **Senator Kelly** added that under Rule 39 of the Senate, we are presumed to be acting on behalf of the public, and we have to ask permission from our fellow senators to be excused from weighing in on a particular topic. This bill will not change that.

**Senator Jorgenson** asked **Senator Kelly** what her motive was for serving in the legislature. **Senator Kelly** answered to represent the people of her district as well as the people of the state. **Senator Jorgenson** asked if she makes any personal sacrifices to do this. **Senator Kelly** answered yes, I think we all make personal sacrifices for ourselves as well as our families.

**Senator Davis** stated he wants to understand 66-32. In congress they report ranges of assets and as he reads this, he is required to make specific disclosures including his spouse. He asked **Senator Kelly** if he was misinterpreting this. **Senator Kelly** replied that on page 4, line 16, in subsection 2 it describes the ranges that need to be reported. Forty seven states have made the public policy determination that their citizens should have access to some general information. The Arizona statute requires disclosure of all family economic interests, not just the candidate and his or her spouse.

**TESTIMONY:**

**Roger Sherman** representing the United Vision for Idaho, addressed the committee regarding **S1038**. **Mr. Sherman** stated that he agreed with the senators that most people will always be clean and won't do bad things, or misuse their office. However, a senator was forced to resign due to a conflict of interest, but ultimately because he lied to an ethics panel about it. Given our current system of non-disclosure, it is hard to discover conflicts. The public has no real way to know what anyone's financial interests are, so this bill is really about the better provisions of disclosure bills already in all but three states, and by the U.S. Congress.

**Mr. Sherman** stated he believed this legislation is good for both the public and for U.S. legislators, as it provides transparency and it takes away the idea that politicians have something to hide. Like the Sunshine Law for reporting campaign contributions, this law will give the public the information it needs to be trustful of government. UVI (United Vision for Idaho) believes that this kind of information is vital to protect our system of representatives.

**MOTION:**

**Senator Malepeai** moved to send **S1038** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion.

**Senator Malepeai** stated he believed we are always seeking transparency in the system. This bill is just one way of assuring the fact that we give voters the confidence that we are above board in all that we do.

**Senator Geddes** stated he has served for thirteen years in the Idaho legislature. His experience has been that every Idaho senator serves with extremely high dignity. **Senator Geddes** added he is not sure why this bill would make him more transparent or a better senator, and he does not see the value in it. Idahoans in his opinion do not have a significant mistrust of their government. Additionally, he is proud of the fact that they have made government as open as it is. But he cannot understand why financial disclosure and the detail that this bill would require, would make a significant change one way or the other.

A roll call vote on the motion of **S1038** was taken.

Senator Darrington - Nay

Senator Geddes - Nay

Senator Davis - Nay

Senator Stegner - Nay

Senator Little - Nay

Senator Jorgenson - Nay

Senator Stennett - Aye

Senator Malepeai - Aye

Senator McKenzie - Nay

The **motion failed**.

**MINUTES:**

**Senator Malepeai** reviewed the minutes of January 26, and he moved to approve them as written. **Senator Stegner** seconded the motion. The motion carried by **voice vote**.

The approval of the minutes for January 29, were held until Monday, February 5.

**ADJOURN:**

**Chairman McKenzie** adjourned the committee meeting at 9:57 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** February 5, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** Vice Chairman Jorgenson.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:02 a.m.

**PRESENTATION:** **Ann Joslin**, Idaho State Librarian, presented an overview to the committee of the state library. **Ms. Joslin** stated she was here to discuss the agency and its activities, and to talk specifically about one program that is in dire need of updating. The Idaho Commission for Libraries is an agency of change. With the states budget shortfall in 2002, the agency considered what they do best and changed accordingly. Their mission is to assist libraries to build to capacity and better serve their clientele. They continue to build on their 2005 statewide future planning process with the state's libraries. That process created a vision for Idaho libraries in the year 2020. That vision is that Idaho libraries are the nexus of global information, innovative services and community to enable them to sustain their history, empower the present, and create the future.

**Ms. Joslin** continued and stated that the commission is focused on building the capacity of Idaho libraries to achieve the vision. The statewide Lili Services helps deliver local access to global information both officially and cost effectively. This service offers a seamless statewide information resource to all citizens, and publicly funded libraries through any internet connection. Full length magazine and newspaper articles and reference sources are readily available. Idahoans downloaded, printed and emailed a variety of articles from the Lili data bases more than one million six hundred and eighty thousand times. If purchased individually by all Idaho libraries, it is more than ten million dollars per year. Idaho's investment was just under five hundred and thirty thousand dollars in fiscal year 2006.

Legislation that passed last year provides for a second Lili service, Lili Unlimited, the statewide web catalog and inter-library loan service for school, public and academic libraries. Over five million books and other materials are available through the Lili catalog. With Lili Unlimited any

book is available locally, regionally or worldwide to Idahoans from their homes, school or office. The state's annual investment is more than matched by school, public and academic libraries. The commission provides other services including Read To Me, the early literacy program, and the Talking Book Service, to those who cannot utilize standard print materials.

**Ms. Joslin** stated she wanted to move on to now and discuss the State Documents Depository Program. The commission distributes state public documents through a depository library system which was established by statute in 1972. Idaho Code 33-2505 provides that twenty copies shall be distributed throughout the state, which includes one copy to the Library of Congress and eighteen depository libraries. This system is outdated and inefficient for the twenty-first century. Much of the information that the state agencies intend to make available to the public, is not easily accessible. A task force examined how Idaho public documents might be more accessible to the citizens of Idaho. They explored the current status of the depository program and they concluded that providing twenty copies of a public document is inefficient and costly. The statute does not address public documents that are created in digital format. Most public documents that are produced today are digital and they estimate that only 30 percent are actually printed for public distribution.

From the perspective of the public user, public access can be hit or miss because not all documents are submitted to the system. The state agencies believe it is costly to comply with the required twenty copies and many do not. The commission cannot enforce compliance with the statute. An easy effective way to access public documents is on the web sites of state agencies. Some documents are for sale and produce revenue for the producing agency.

Currently there is no plan in place. The task force developed a vision for efficient and effective access to Idaho public documents. That vision is to support the democratic process. The people of Idaho need access to Idaho government information through public documents, and the best and efficient way to achieve this is through one, stable on-line access point, for a master digital depository of all state public documents. Finally, the task force developed six recommendations for achieving the vision.

- 1) Develop a digital repository of public documents that is easy to find and access;
- 2) Develop standards and tools to make compliance fast and easy for state agencies;
- 3) Revise the statute;
- 4) Develop a preservation plan to address how public documents, both printed and digital, will be accessed over time;
- 5) Digitize existing print only public documents and add them to the digital repository; and
- 6) Create and maintain a funding mechanism to implement these recommendations, and to support the life cycle of state public documents in the future.

The staff of the commission is pursuing these recommendations. They are actively identifying certain types of public documents from agency

web sites and storing them on the server. Boise State University will assess the scope and volume of current state public documents. They have also partnered with several Western states to create a regional digital repository and are waiting for funding. In addition to that, another task force is developing legislation for the next legislative session.

**Senator Darrington** asked **Ms. Joslin** if the school libraries throughout the state are a part of this commission. **Ms. Joslin** answered that she didn't believe there were any school libraries, K through 12 that are depository libraries. Most tend to be the academic or special libraries and a handful of public libraries. **Senator Darrington** commented that about five or six years ago, there was a need for funding to facilitate electronic transfers. **Ms. Joslin** stated she is not positive, but she believed that **Senator Darrington** may be referring to the Lili data bases. All the schools in the state have an account with the vendor that provides the Lili program, which is entirely state funded. **Ms. Joslin** encouraged the committee to check out the Lili data bases.

**Senator Stegner** stated **Ms. Joslin's** presentation was very informative and he is glad to see someone is thinking that far forward. He asked **Ms. Joslin** if the commission is interacting with the state archives, and what role do they play in this overall effort regarding the long term preservation of public records. **Ms. Joslin** answered that the commission has been talking with the Historical Society and the statute is not clear as to when a public document becomes an archive. Clearly at some point it needs to be there. The Historical Society had representation on the task force and she believes they are on the same page in how they approach this. The commission makes the current information available to the public, and the archives have the responsibility for the long term preservation and accessibility.

**Senator Stennett** asked **Ms. Joslin** if the commission interacted with Google. **Ms. Joslin** replied that may be possible when they have the digital repository. The commission sees all the state public documents residing electronically on a server, which should be searchable by Google. The repository would also be searchable on its own. The general public may not be aware that there are state public documents available, and what agency produces it. There are no guidelines or parameters as to how long a document needs to be on a web site. The repository will be a permanent collection of state publications. **Senator Stennett** asked **Ms. Joslin** if she knew of any document today that is not born digitally. **Ms. Joslin** answered she couldn't think of any but she believes that the bulk are digitally produced.

**Senator Little** commented that Access Idaho originally was in the Department of Administration's domain. The administrative rules are a part of their responsibility. They have an incentive to remove the rules based on the cost of \$52.00 a page to keep the rules on line. He asked **Ms. Joslin** what system do we have for the administrative rules. **Ms. Joslin** answered that she didn't think she could answer that question.

**Senator Stennett** asked **Senator Little** if the fee was \$52.00 per year.

**Senator Little** clarified it was per page, and that is the incentive for the agencies to get rid of the rules. **Senator Stennett** asked who does that money go to. **Senator Little** answered that he assumed it goes to the Department of Administration.

**Chairman McKenzie** thanked **Ms. Joslin** for her time and presentation.

**RS16802**

**Senator Kelly** presented **RS16802** to the committee. **Senator Kelly** stated that the bill before the committee is to amend a few sections to the open meeting law. The goal was to have language that actually works in practice and that respects the basis of the open meeting law. Generally meetings should be open unless there is good reason for them not to be. **Senator Kelly** added that the minutes language is a clarification of when the minutes are taken in executive session, and what the nature and scope of the minutes should be.

**Senator Kelly** continued and stated the next change is to the litigation exemption. This was added in 1978 to basically allow the governing boards and councils to go into executive session to talk about legal issues. The current language could be clearer and that is what the change is, to clarify it. Recently there have been several issues at the local level involving interpretations of this language. As part of the process they looked at the litigation exemptions of all fifty states, and used what they believed was clear and would work.

The third change is a new addition to the executive session exemption and it deals with risk management. Some of these exemptions are similar to other states and it makes sense from a risk management standpoint, to have some parameters under which these councils can go to executive session.

**Senator Davis** asked **Senator Kelly** if they go into executive session, and it is a telephone conference with council, would it satisfy the requirements of this. **Senator Kelly** answered that the Attorney General's Office stated it is perfectly acceptable to do this.

**Senator Darrington** stated his question has to do with both paragraphs on the second page. He asked **Senator Kelly** if we are "splitting hairs" on the last sentence where it states the mere presence of the attorney, does it satisfy the requirement, and isn't it somewhat subjective? **Senator Kelly** answered that it means they cannot just have council present. They must actually discuss the information in the proceedings. As part of the process, those two sentences were added.

**MOTION:**

**Senator Davis** made the motion to print **RS16802** and **Senator Stennett** seconded the motion. There was no discussion on the motion. The motion carried to print **RS16802** by **voice vote**.

**S1063**

**Chairman McKenzie** stated that there may be some changes to the language in **S1063**. **Senator Little** stated this bill has some problems with the language. The Attorney General's Office represents the Endowment Fund and some changes need to be made. **Senator Little** asked the committee to hold **S1063** and he would introduce another RS

rather than taking this to the amending order.

**MOTION:** **Senator Davis** made a motion to hold **S1063** in committee. **Senator Darrington** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL APPOINTMENT:** The confirmation vote of **David Keyes** to the Idaho Lottery Commission was before the committee.

**MOTION:** **Senator Little** moved to confirm **David Keyes** and **Senator Malepeai** seconded the motion. The motion carried to confirm **David Keyes** by **voice vote**.

**MINUTES:** **Senator Darrington** moved to approve the minutes of January 31, as written. **Senator Malepeai** seconded the motion and the motion carried by **voice vote**.

**Senator Malepeai** made the motion to approve the minutes of January 29. **Senator Davis** seconded the motion. The minutes were approved as written by **voice vote**.

**ADJOURN:** There being no further business before the committee, **Chairman McKenzie** adjourned the meeting at 8:42 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary



## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** February 7, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** Chairman McKenzie and Senator Stegner.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Vice Chairman Jorgenson** called the meeting to order at 8:02 a.m.

**S1062** **Vice Chairman Jorgenson** introduced **Tim Mason**, Administrator for the Department of Public Works. **Mr. Mason** stated that **S1062** allows a change to Title 67, sections 4, 12, and 16. The legislative organizational session will take place outside of the Capitol Building while the renovation and restoration is ongoing, the Treasurer will keep monies in a temporary vault and the furniture will be removed and stored until the completion of the Capitol Building.

**Senator Davis** stated he supports **S1062** but he has a concern regarding the language "in the building in which the legislature will hold sessions". Maybe it should read "as designated by legislative council". **Mr. Mason** commented that he agreed and that they presumed the language was appropriate. **Senator Davis** stated that the statute on legislative council includes a listing of duties, including the preparation of the facilities to host the legislature.

**MOTION:** **Senator Davis** moved to send **S1062** to the floor with a **do pass** recommendation. **Senator Malepeai** seconded the motion and the motion carried by **voice vote**.

**RS16917** **Senator Little** presented **RS16917** and stated that the funds from escheated estates, dividends, and unclaimed property were designated to go to the Public School Permanent Endowment Fund. After endowment reform, the funds were deposited into the general fund. This bill will change the distribution of the funds and conform the requirement of Article 9, Section 4 of the Idaho Constitution.

**MOTION:** **Senator Stennett** made a motion to print **RS16917** and **Senator Geddes** seconded the motion. The motion carried by **voice vote**.

**ADJOURN:** There being no further business before the committee, **Vice Chairman**

**Jorgenson** adjourned the meeting at 8:10 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** February 9, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Stegner, Little, and Stennett.

**MEMBERS ABSENT/EXCUSED:** Senators Geddes, Davis and Malepeai.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:03 a.m.

**S1064** **Mike Nugent** from Legislative Services discussed **S1064** regarding the changes to the codifier's bill. **Mr. Nugent** stated that the purpose of the bill is to make various codifier corrections to the Idaho Code. Rather than waiting for future amendments to the various affected sections, this bill compiles those code sections affected in the legislative sessions prior to 2007, that contain conflicting numbering so that the designations may be corrected.

**MOTION:** **Senator Little** made a motion to send **S1064** to the floor with a **do pass** recommendation. **Senator Jorgenson** seconded the motion and the motion carried by **voice vote**.

**H0030** **Ron Williams** presented **H0030** to the committee. **Mr. Williams** stated that he represents both the IERA (Idaho Energy Resources Authority) and the Idaho Consumer Owned Utilities. This bill authorizes cities to be joint power project owners or to sign long term power purchase agreements. There are nine electric cities in Idaho that provide electric service, to meet the needs of citizens and businesses within the municipal boundaries. The future of power supply for these cities as well as all customers can no longer rely upon volatile market-based power supply contracts. This bill eliminates that statutory ambiguity and provides municipal governments with an alternative. Current Idaho law is unclear whether municipalities have authority to purchase an interest in a jointly owned project, or whether their authority is merely limited to ownership of wholly owned facilities.

**Senator Stegner** asked if the bill had been reviewed by the energy task force. **Mr. Williams** answered yes, the committee has looked at this since August. They have had several meetings but he is not sure if there was a motion to approve this as well as **H0032**. **Senator Stegner** asked

**Chairman McKenzie**, co-chairman of the task force, if the committee had approved this. **Chairman McKenzie** stated that they reviewed the language, but they did not have a motion on this because of the timing. These are the recommendations from the committee.

**MOTION:**

**Senator Darrington** made a motion to send **H0030** to the floor with a **do pass** recommendation. **Senator Jorgenson** seconded the motion and the motion carried by **voice vote**.

**H0032**

**Mr. Williams** continued with **H0032** and stated that this is a technical amendment to the Idaho Energy Resources Authority. **Bob Mooney**, the Chairman for the Authority is here today and he is also an independent consultant for the energy industry. **Mr. Williams** stated that **H0032** makes three changes to the IERA Act. The first change adds the word "distribution" so that the IERA can also finance electric distribution facilities for utilities. Secondly, it would allow the IERA to "operate or manage" the electric facilities it finances or owns. Lastly, the IERA Act simply authorizes the state treasurer to purchase either fixed or variable rate bonds of the IERA. This provision will make small bond issuances of the IERA more cost effective.

**Senator Little** asked **Mr. Williams** if they thought about amending 67-1210, and stated that he is concerned about what the treasurer can and cannot invest in. **Mr. Williams** answered that they discussed this with **Treasurer Crane** and concluded that in this instance, it is more appropriate to amend their code section for his authority, rather than to amend the treasurer's code section for his authority. **Senator Little** stated it is pretty specific in the treasurer's code section as to what he can invest in. He asked **Mr. Williams** if it would it have been easier to put it in here so we know what the treasurer can invest in. **Mr. Williams** replied that he doesn't disagree with **Senator Little**. They did talk about the alternatives to do this, and the treasurer stated that the way they proposed it was fine with him.

**Senator Stegner** stated that in Section 2, 8910 it is crafted very tightly to mandate that the management function be contracted out to an entity. He asked **Mr. Williams** if that was done on purpose to prevent the establishment of a large management infra structure within the Authority. **Mr. Williams** answered that some of his observations are correct but that the original concern is that this organization could grow and become another operating agency. **Mr. Williams** asked the committee to defer to **Bob Mooney**. **Mr. Mooney** stated that in principal the manager and operator is simply so that a prospective borrower from the Energy Authority could designate us. They have no desire to build a large organization to meet the needs of those who are borrowing. He hears the concern, but it is solely up to the borrowers to control it and no one is pushing the Authority to do that.

**Mr. Williams** said that he believes the way the statute works for the IERA, is that they cannot initiate projects on their own. It can only respond to the projects that are brought to them by participating utilities. **Senator Stegner** commented the legislature may have a concern. When this was

passed two years ago we didn't go into that area, because it may have raised these kinds of questions. The Authority has been established, it is a function of the government, and now we are being asked to change the law to allow for an expansion of that Authority.

**Mr. Williams** replied that he has two observations with respect to that concern. One is that this change is primarily in response to actual contracts in market conditions, and putting together a deal that is being put together now, that wasn't two years ago. This change is in response to functional barriers that the Authority is running into. This solves some problems for some utilities. Secondly, some of the groups that expressed the same concerns last year regarding IERA becoming a large operating entity, are fine with these changes. They understand the complex nature of putting together a billion dollar power plant with thirty and forty participating utilities.

**Senator Stegner** asked **Chairman McKenzie** to yield to the question that some of these discussions took place in the energy task force, and did they review this concept. **Chairman McKenzie** answered that the discussions took place in committee meetings and sub committees dealt with specific areas.

**Senator Little** stated his understanding about the Authority is that they do the financing, not the managing and operating. He sees this as going through a financing vehicle to an operating vehicle. **Senator Little** asked **Mr. Williams** how do we know that won't happen down the road with a different board. **Mr. Williams** said he would like to defer to **Mr. Mooney**. **Mr. Mooney** answered that his only thought would be from working with the seven board members that are appointed. The individuals would have to ask us to act on their behalf to the specific projects. He doesn't see the board taking over what they are not asked to do.

**Senator Little** stated I assume they will be asked to manage and operate. He asked what assets of the Authority could be jeopardized. **Mr. Mooney** answered any dispute within the project would remain there. The Authority would have an agreement with the specific project and it would be looked after carefully. He does not see that spilling over to the Authority or to other projects. **Senator Little** asked what happens if we amend this and take out manage and operate. **Mr. Mooney** replied that he is not aware of any project that would be in jeopardy by doing so.

**Senator Little** asked **Mr. Williams** if the language about the bonding meant it had to go to the capital market. **Mr. Williams** answered that was correct. It is more of an economical vehicle as opposed to the public market. **Senator Little** asked to determine whether or not the underlying paper has investment grade, don't you have to go to the capital market to get that determination made before you go to the treasurer. **Mr. Williams** answered that is correct.

**Senator Stegner** stated he would like more time to review this and talk about the expanded management of the Authority. He is not adamantly opposed to this, he just has questions.

**MOTION:** **Senator Stegner** moved to hold **H0032** in committee until next Wednesday, February 14. **Senator Little** seconded the motion.

**Senator Darrington** stated he will support the motion to hold this, but he is not happy with the delay because we are dealing with people who know what they are doing. **Senator Little** added they do not question the competence of the IERA, but when code changes are made, things change sometimes down the road. That is the concern.

The motion carried by **voice vote** to hold **H0032** in committee until February 14.

**RS16920** **Chairman McKenzie** turned the chairmanship over to **Vice Chairman Jorgenson** as he is the sponsor of this bill. He stated that this bill relates to temporary disabilities for police officers. It is not uncommon for an officer to be injured in the line of duty either by dealing directly with a criminal, or just while doing general duties on the job. A dedicated fund would be set up and funded by a convicted felon or a misdemeanor crime, to provide full salary to an employee who has been injured on the job. Currently it is funded by local tax dollars. The fee would be a three dollar charge which is based on the number of convictions. The fund would generate approximately \$200,000 in a full fiscal year.

**Senator Darrington** asked **Chairman McKenzie** if the fee is three dollars on fines. **Chairman McKenzie** answered yes. **Senator Darrington** stated that he would not support an increase in fines. Fines are already too high in the state of Idaho, but that he would support filing fees. **Chairman McKenzie** replied that it is an understandable concern, but the fee is for those responsible and who put the burden on society. The criminal should bear the cost rather than the general public. **Senator Darrington** stated fines are not general fund money, and that is why every program that needs funding tries to find some secure revenue source.

**Senator Stegner** stated he has some concerns regarding the structure of the bill. This is a disability issue and he believes it should be part of the disability package that is uniform and funded.

**MOTION:** **Senator Stegner** made a motion to print **RS16920** and **Senator Darrington** seconded the motion.

**Senator Stennett** stated initially you indicated that some jurisdictions are currently stepping in to fill the void. He asked **Chairman McKenzie** if the calculation had been made if someone were to withdraw and take advantage of this fund. **Chairman McKenzie** answered yes it has been calculated in here and the cost would be covered.

There was no further discussion, the motion to print **RS16920** carried by **voice vote**.

**ADJOURN:** **Chairman McKenzie** adjourned the meeting at 8:50 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** February 12, 2007

**TIME:** 8:00 a.m.

**PLACE:** Gold Room

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:14 a.m.

**S1082** **Senator Fulcher** addressed the committee regarding **S1082** and stated that there are some necessary changes to the bill. His intent is to amend the bill at the fourteenth order. The bill deals with two concerns. It will reinstate the parental consent requirements before a minor girl can obtain a legal abortion in Idaho, and the constitutionality. The language is the key part of the bill and it was patterned after Arizona.

**Senator Fulcher** continued and asked for the support of the committee. He stated if we do nothing, more money will be spent in litigation, minors will be left unprotected, and if the appeal fails, we have nothing to fall back on. The primary litigation points have been removed. The reporting requirement language is gone as well as the post emergency notification. He stated that he could not guarantee this would pass judicial scrutiny, but if we do not pass this, we still will have nothing to fall back on.

**Senator Malepeai** asked **Senator Fulcher** if each point on the bill had been addressed. **Senator Fulcher** answered yes, the primary points of reporting and the post emergency notification issues have been struck from the bill. **Senator Malepeai** asked if the Attorney General agreed with the changes. **Jeremy Chou** from the Attorney General's Office stated that the District Judge had three issues of concern. 1) Reporting to law enforcement, 2) the post medical emergency notification of a minor who sought medical attention, and 3) the post medical emergency, which relates to criminal provisions against physicians who fail to notify parents. All this language has been removed. **Senator Malepeai** asked **Mr. Chou** if a minor can petition the court on their own, or do they need legal representation. **Mr. Chou** replied that a minor may petition on their own or have legal counsel petition for them.

**TESTIMONY:** The following individuals testified in support of **S1082**.



Pro-Life  
Paul Smith  
Julie Lynde, Cornerstone Institute of Idaho  
Jason Herring, Right to Life of Idaho  
David Ripley, Idaho Chooses Life  
Bryan Fischer, Idaho Values Alliance  
Brandi Swindell, Generation Life  
Susan Drayton  
Susan Stine, teacher

The following testified in opposition to **S1082**.

Fairy Hitchcock  
Rev. Jon Brown, retired minister  
Burke Hays, Planned Parenthood  
Dan Fink, Rabbi  
Marty Durand, Idaho Women's Network  
Hannah Saona, ACLU

If written testimony was provided to the committee, it will be on file in the committee office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**Senator Davis** asked **Burke Hays** if Planned Parenthood had any concerns with **S1082**, and if they had confidence that it will survive at the 9<sup>th</sup> Circuit Court. **Mr. Hays** answered that they have fewer concerns with the language. **Senator Davis** asked if Planned Parenthood had determined what they would do with the pending appeal. **Mr. Hays** replied, no.

**Senator Malepeai** asked **Mr. Hays** to give him a scenario of potential problems a minor would have to prevent them from going through with an abortion. **Mr. Hays** stated he believed the real issue is that not all teens come from healthy families, and the burden of making a decision is an issue for them.

**Senator Davis** asked **Marty Durand**, from the Idaho Women's Network, if she had read the bill and if they thought it would pass judicial scrutiny. **Ms. Durand** answered no, that the organization does not do that.

**Senator Davis** asked **Hannah Saona**, legal counsel for the ACLU (American Civil Liberties Union) of Idaho if the ACLU was aware of any provision that would not pass judicial scrutiny. **Ms. Saona** answered no they have not made a determination as yet.

**Senator Fulcher** spoke to the committee and summed up by stating this is not a pleasant issue and something we do not relish addressing. But it needs to be addressed and we are obligated to deal with these issues. He urged the committee to support **S1082**.

**Chairman McKenzie** asked **Senator Fulcher** if his intent was to send **S1082** to the fourteenth amending order. **Senator Fulcher** answered yes it is.

**Senator Stennett** asked **Senator Fulcher** to explain the process for a minor to petition the court. **Senator Fulcher** answered that on page 2, line 31 of the bill it provides for judicial bypass. A minor can request intervention or ask the court for intervention. **Senator Stennett** asked how can a minor do this without legal counsel. **Senator Fulcher** replied that there are a number of entities who can assist a minor with the process.

**Senator Malepeai** stated he has concerns with confidentiality. Will they go through a judge, or is it a public meeting. He asked **Senator Fulcher** to address that issue. **Senator Fulcher** answered the bill will not fix the emotional aspects the family and minor go through. The purpose of the bill is to have parents involved in the process. There is no guarantee of anonymity.

**Senator Davis** stated that **Senator Malepeai** should look at page 2, line 40 through 51 of the bill. The proceedings are closed and that should help **Senator Malepeai** with his concern.

**MOTION:**

**Senator Geddes** made the motion to send **S1082** to the fourteenth order for amending, and **Senator Davis** seconded the motion.

**Chairman McKenzie** requested a roll call vote on **S1082**.

Senator Darrington - Aye

Senator Geddes - Aye

Senator Davis - Aye

Senator Stegner - Nay

Senator Little - Aye

Senator Jorgenson - Aye

Senator Stennett - Nay

Senator Malepeai - Aye

Senator McKenzie - Aye

The motion **carried** to send **S1082** to the amending order.

**ADJOURN:**

There being no further business before the committee, **Chairman McKenzie** adjourned the meeting at 9:40 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** February 14, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:02 a.m.

**GUBERNATORIAL APPOINTMENTS:** **Lois Bauer** addressed the committee regarding her reappointment as the Administrator for the Idaho Commission on Aging. **Ms. Bauer** stated she first started working on the commission July 11, 2001, and was appointed by **Governor Kempthorne**. Last December **Governor Otter** made her an offer that she personally could not turn down. She decided to continue with her position and in addition to that, to be the Policy Advisor for the agency and for Idaho's aging population.

**Ms. Bauer** continued and stated that she wanted to tell the committee the direction she believes the commission should work towards. Some seniors will need immediate assistance while others still have time for preventative planning. The biggest issue will be in finding the resources to provide services to those who are at risk. Additionally, resources are needed to provide information, education, and training for those who could be helped. The commission has already begun preparing for the continued growth of the older population of Idaho by developing community resources throughout the state. The commission has implemented a pilot project in North Idaho, and the goal of Aging Connection is to help the pre-medicaid eligible to use resources that are available. They do this by evaluating their financial resources, family and community resources, and personal choices. Currently the staff of the commission are researching a grant that will help provide long term care, counseling, and life span respite care in the future. If they are awarded the grant, the commission will request spending authority from the legislature next year. Every effort is made to make sure that all dollars are spent wisely.

**Senator Davis** stated that he applauds the work that **Ms. Bauer** and the commission are doing. He asked **Ms. Bauer** how she sees the state of Idaho in the future providing those resources. **Ms. Bauer** answered that

the Commission on Aging cannot provide assistance directly. They can, however, lay the groundwork for agencies to provide services. The grant is a federal grant and the commission would have to contribute 25%. If it is a continuing grant, then they would need the funds which can come from volunteers and contributions.

**Senator Davis** asked **Ms. Bauer** if the grant is a seed grant, what is the amount of the grant, and what dollar amount is needed for the 25%. **Ms. Bauer** replied that this is not a seed grant, but a continuing long term grant. The federal government has not stated how much they are putting into the project, so she cannot give a figure right now. The money from the grant can be put into the system like Aging Connection, and that will be ongoing. They will also be able to assist more seniors from going onto medicaid short term, and perhaps long term.

**Chairman McKenzie** thanked **Ms. Bauer** and advised her that the committee will vote on her reappointment at the next meeting.

**Mack Redford** was appointed to the Public Utilities Commission by **Governor Otter**. **Mr. Redford** stated he is an attorney and a fifth generation Idahoan. He was educated in the state of Idaho and he is a Vandal. Initially he started out in the Attorney General's office and he was the first member of the Pardons and Parole Commission. This is the first time in forty-three years that he has endeavored to do something that is not directly associated with the law. **Mr. Redford** added that he believes there are challenging things happening in the state with regard to fuel. The PUC (Public Utilities Commission) is not directly involved, but they are an associate member of the organization that will lead and guide the state of Idaho, in working our way through finding energy sources for the future.

**Senator Davis** asked **Mr. Redford** if he had any conflicts from his law practice, either with clients or the law firm that would impact him from serving on the commission. **Mr. Redford** answered no, he does not. Most of his practice was in construction law.

**Mr. Redford** was advised by **Chairman McKenzie** that the committee would vote on his appointment at the next meeting.

**Dyke Nally** appeared before the committee regarding his reappointment as the Superintendent to the Idaho State Liquor Dispensary. **Mr. Nally** addressed the committee and stated that he was raised in Caldwell, Idaho. For twenty-seven years he was the Director of Alumni Relations at Caldwell-Boise Junior College. He has served with six university presidents and in 1995 the Governor asked him to temporarily operate the liquor dispensary. His most exciting appointment was with **Governor Risch**. He was called to the governor's office and believed he was facing early retirement. The Governor asked him if he had any indication why he was there, and if **Mr. Nally** preferred to stay at the liquor dispensary or be fired.

**Mr. Nally** stated that **Governor Otter** asked him to continue as the

Superintendent. In 1995 the dispensary was doing approximately fifty three million dollars in sales, and with the explosive growth in the state they have experienced an 87% growth in the last six years. They have 155 stores throughout the state, 55 of which are state operated in the larger communities. The remaining 100 are contract stores who are private business partners with the state on consignment. They are paid a commission, but it is all controlled by the state. There are four district managers, and they have thirty-five employees in the warehouse. During peak months they have up to three hundred employees, with one hundred seventy full time employees. Last year they saw a 15% increase which is due to population, along with consumers being exposed to higher priced products. Consumers are looking for quality and the average priced bottle sells for \$10.00. Idaho is 37<sup>th</sup> in the nation for consumption and low as far as liquor controlled states. Nineteen states are still under control jurisdiction and since 1933, none of these states have given up their business. As for the future, **Mr. Nally** stated that he sees the growth to continue. The state derives about 74% of the revenue on 4% of the sales. This is a great business for the taxpayers and the people of Idaho.

**Senator Geddes** asked **Mr. Nally** to explain how the price is set on packaged liquor, does the dispensary set the price, and is it comparable throughout the state. **Mr. Nally** answered that the prices in Idaho are uniform throughout the state. All one hundred fifty five stores sell products for the exact same price. The markup is actually the tax and the price is set based on what the neighboring states sell it for. All of Idaho's border states are control states, except for Nevada. The prices are set to stay competitive, but the state loses some business to the south, but gains business from the north. Washington's prices are much higher than Idaho. **Mr. Nally** stated that the Caldwell store does approximately \$700,000 per year and the state has two stores that do over one million dollars in sales.

**Chairman McKenzie** thanked **Mr. Nally** for speaking to the committee, and advised him that they would vote on his reappointment at the next meeting.

Chairman McKenzie stated that the confirmation vote of **Roy E. Decker** was before the committee. His term had expired and the committee needs to have another confirmation vote.

**MOTION:**

**Senator Davis** made a motion to reconfirm **Mr. Decker** and send it to the floor for an additional journal entry. **Senator Geddes** seconded the motion. **Senator Davis** explained the journal already indicates that **Mr. Decker** is confirmed through 2010, however the previous correspondence was for a different time period. The motion carried by **voice vote**.

**H0032**

**Ron Williams** stated he wanted to address the concerns of **H0032** in the second section of the bill. The words "manage and operate" have been inserted into section 67-8910. In section 67-8910a, subsection h, it authorizes the Authority to repair, manage and operate and regulate a facility. Some limitations were added as far as development and

financing, which states that the Authority shall not commence the development or financing of a facility until it has entered into a contract with the participating utility. Additionally, the Authority proposes an amendment to section 2 of **H0032** which strikes it from the bill. A new section has been added to require that the managing and operating activities can only commence at the request of a participating utility.

**MOTION:**

**Senator Davis** moved to send **H0032** to the fourteenth amending order and **Senator Geddes** seconded the motion. The motion carried by **voice vote**.

**S1085**

**Senator Kelly** addressed the committee regarding **S1085** which is the open meeting law. **Senator Kelly** stated this is a consensus bill and there are a number of different issues, particularly with the litigation exemption to executive sessions. It applies to local governments, commissions, state agencies, and all levels of government when they go into executive session. First and foremost they want to respect the open meeting laws. On the other hand, government needs to do business and a practical solution is needed to work for all the agencies.

**Senator Kelly** continued and stated that in subsection 2, line 22, it only applies to executive sessions and relates to what minutes need to be kept. The previous language was confusing and a specific statutory section must be cited when going into session. On page 2, line 10 through 16, there are amendments to the litigation exemption. The language used in all fifty states was looked at and it is used as a clearer definition.

**Senator Davis** stated that the language in sub part f, on page 2, to communicate with legal counsel could be construed as you could go into executive session without legal counsel, craft a letter, and subsequently send it to counsel, and that it constitutes an act of "to communicate".

**Senator Kelly** asked if **Mike Kane** from ICRMP (Idaho Counties Risk Management Program) could speak to that. **Mr. Kane** stated that to take the words "to communicate" alone, that **Senator Davis** has a point. But if you add "to discuss the legal ramifications" it should be clear that legal counsel be present and that there is an issue before them to be discussed. **Senator Davis** asked if that meant counsel needed to be present either in person or by some sort of electronic means and actively participate in that executive session. **Senator Kelly** answered yes, that is correct.

**Senator Stegner** stated that the mere presence of counsel does not satisfy this requirement. He asked if legal counsel has to be present, and is it a condition for a public entity to go into executive session to discuss a lawsuit or a pending legal action against them. **Senator Kelly** replied that this statutory language is intended to require that legal counsel be present. **Senator Stegner** asked what if they don't have legal counsel. **Senator Kelly** answered then subsection a on page 1 would be invoked. This would allow them to go into executive session to consider hiring legal counsel. **Senator Stegner** stated that he doesn't see that, and asked if it would come under the definition of individual agent. **Senator Kelly** answered yes. **Senator Stegner** replied that he would be more

comfortable if it actually said that, and that is his concern.

**Senator Little** asked what happens when there is a concern about being sued. **Senator Kelly** responded maybe **Mr. Kane** could answer that. **Mr. Kane**, who represents ICRMP, (Idaho Counties Risk Management Program) answered that the first thing an agency would do is contact ICRMP. The matter is taken under advisement and ICRMP provides legal counsel. **Senator Little** asked what if it is a small volunteer board who meets infrequently. What do they do, please explain that to me. **Mr. Kane** replied they need to either take the matter under advisement and call for assistance, or they can make a decision about what to do. They cannot go into executive session to make a decision under any circumstance. The language is trying to make it clear as to when counsel can visit in an executive session.

**Senator Kelly** continued and stated that in subsection j, on page 2, lines 22 through 27, it adds a new reason for going into executive session. It directly relates to risk management insurance. The agencies need to have the ability to speak with their risk manager regarding any given scenario. The Attorney General's Office agreed that this is good language. **Senator Kelly** urged the committee to support these changes.

**Mr. Kane** added that this bill is about the litigation exception to the public records law. The language that has been drafted means there is a standard and that legal counsel can go into executive session now, as well as adjusters to answer questions.

**Senator Little** wanted to know if a public entity can meet in executive session if there is a threat of an impending lawsuit, and they need to discuss what their options are. **Bill von Tagen** from the Attorney General's Office addressed the committee and stated that he believed under subsection a they could, because they would be hiring legal counsel. Under the existing law, it does not allow for this unless legal counsel is present. **Mr. Von Tagen** added as he sees this language it is definitely an improvement.

**Senator Stegner** stated that he preferred to have the term "individual agent" under a to be more specific. His concern goes back to f. The assumption that an attorney must be present in an executive session is not a standard that he could support. Additionally, **Senator Stegner** added that he doesn't believe an agency should have to wait for legal counsel before going into executive session. **Senator Stegner** asked **Mr. von Tagen** if an agency can go into executive session without legal representation physically present, or telephonically. **Mr. von Tagen** replied that the existing statute is poorly written. They have never interpreted the open meeting law in all instances of an executive session, that you could not go into executive session without legal counsel. Under the existing language, legal counsel must be present. **Senator Stegner** commented that he believes this is what the sponsor suggests and he thinks it is a significant error in terms that it is mandated to be a condition for an executive session.

**Mr. Kane** added that ICRMP is stuck with language right now that makes it impossible to communicate with our clients. He understands some of the concerns that have been raised today.

**Senator Stegner** stated he does not want to kill this bill. He only wants to improve it and make sure that it covers the things that he believes are important. **Senator Davis** asked if **Senator Stegner** would yield to an inquiry. He asked conceptually what would he suggest as an amendment to **S1085**. **Senator Stegner** answered that he would like f to be very specific, to make sure there is no ambiguity as to whether or not legal counsel has to be present in the room. He would also like a to identify an individual agent to include legal counsel. **Senator Davis** asked if his intent was that sub part f would be expended to have executive sessions without legal counsel. **Senator Stegner** answered yes, for a very specific purpose.

**Kelci Karl-Robinson** who represents the Idaho Association of Counties stated that she believes this is a good change to the law.

**Jeremy Pisca** stated he is here today representing the Idaho Allied Dailies, the daily newspapers in the state of Idaho. **Mr. Pisca** became involved with **S1085** in January when he was asked to comment on it. He was not involved with the drafting of the bill and his understanding is that it is a clean up bill. The statute that exists is relatively unclear. Public bodies can already go into executive session to consider hiring public officers, employees and individual agents. **Mr. Pisca** added that he believes this should be broad to include anyone under your employment. They can go into executive session to dismiss or discipline employees, they can discuss labor negotiations, real property transactions, and to discuss litigation. This is only intended to clarify it and to add one thing, to assist the risk management to discuss pending litigation.

**Kevin Richert**, from the Idaho Press Club, stated that he supports **S1085**. The one section in the bill regarding which legal issues are eligible for an executive session, is an important change. Compared to the other exemptions it is fairly loose language, and this new language will be more clear.

**Bill von Tagen** stated that the existing language in the statute was originally meant to mirror attorney client communications and the confidentiality that attaches to that. Public bodies need to be able to consult with legal counsel. **Mr. Von Tagen** added that his concern regarding "eminently likely to be litigated" and the safeguard of having legal counsel present is removed, then there are questions about litigating. This is good legislation and the language is appropriate.

**Senator Kelly** stated this is an extremely important issue and she thanked the committee for their patience in working through this. Many agencies participated including the school board. **Senator Kelly** summed up and stated the goal was to respect the open meeting law presumption that all government meetings are open, and to understand that at certain times executive session is appropriate.



**Senator Stegner** stated that he wants the committee to understand his concern. It is not with any significant part of the bill other than f and he finds f to be ambiguous. He does not understand it. It does not clearly say that an attorney has to be present or not. If that is what the sponsor intends, the law should reflect that.

**MOTION:**

**Senator Stegner** moved to send **S1085** to the fourteenth amending order. **Senator Geddes** seconded the motion.

**Senator Davis** made a motion to send **S1085** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. **Senator Davis** stated that he could support the original motion, but he disagrees with **Senator Stegner** and he does not see that sub part f is not clear, and he does not see the ambiguity that was suggested.

**Senator Geddes** stated that he is not sure what "individual agent" means. We are writing f for county commissions etc. to understand. **Senator Davis** did a search on "individual agent" and it is not defined in state law. If individual agent means "attorney" than it should say so. F needs to be clear because this is the point of contention in the open meeting law.

**Senator Davis** commented that the term "individual agent" is certainly enough to encompass the hiring of counsel, and it allows this governmental entity the authority to hire other agents. **Senator Davis** stated that he does not share the Pro Tem's ultimate concern.

**Chairman McKenzie** asked for a roll call vote on the substitute motion to send **S1085** to the floor with a **do pass** recommendation.

Senator Darrington - Aye  
Senator Geddes - Nay  
Senator Davis - Aye  
Senator Stegner - Nay  
Senator Little - Nay  
Senator Jorgenson - Nay  
Senator Stennett - Aye  
Senator Malepeai - Aye  
Senator McKenzie - Aye

The motion carried to send **S1085** to the floor with a **do pass** recommendation.

**RS16949**

**Senator McGee** addressed the committee and stated that essentially this will require every adult in the state of Idaho, to prove that they are a valid U.S. resident before they can collect a taxpayer funded benefit. Idaho is not the only state who has begun to do this. Thirty states have passed fifty-seven bills that are similar, to restrict benefits to those who are in the country legally. Unemployment and welfare is no longer an option if a resident is here illegally. Some humanitarian provisions are included in the bill. **Senator McGee** asked the committee to print the RS.

**Senator Darrington** asked if the verification by an adult will suffice for the eligibility of a minor child. **Senator McGee** answered yes, that is correct.

**Senator Darrington** asked if the exceptions run deep enough to cover the requirements of hospitals and emergency rooms to accept them. **Senator McGee** responded that is correct, it is federal law and not affected by this legislation.

**Senator Stennett** asked what the penalty would be for providing benefits. **Senator McGee** answered that he didn't think there would be a penalty. **Senator Stennett** stated that he doesn't see a penalty provision in this section of the code. **Senator McGee** answered he doesn't know the answer to that but he will find out. **Senator Stennett** stated he believes some employers may think they have thoroughly checked out someone only to discover the employee is not residing here legally. He asked how that would be handled. **Senator McGee** replied the system used for verification can only do so much.

**Senator Jorgenson** commented that the city program actually offers a safe haven to employers if they have made attempts for verification. There is no charge to the employer to use this. **Senator Stennett** asked if this would apply to state agencies as well. **Senator Jorgenson** answered that by executive order, all state agencies and vendors are required to use the safe program.

**Senator Darrington** asked if this applies to those already receiving benefits prior to the implementation of the law. **Senator McGee** answered that this only applies when an individual applies for benefits. That is when the verification for identification is made.

**Senator Stennett** asked what if the verification has been done, the employee is injured, and then it is discovered that the employee is actually residing here illegally. **Senator McGee** answered that he doesn't know the answer.

**Senator Jorgenson** stated that if the verification is done and then it proves to be invalid the person is terminated. However, if the employer did not do their due diligence and an illegal employee were to be injured on the job, than the employer would be responsible for their medical costs.

**Senator Davis** stated that he doesn't want the concern that **Senator Stennett** raised to be lost. There needs to be some appropriate assurance for that injured party. **Senator McGee** responded that he would look into that.

**MOTION:**

**Senator Davis** made a motion to print **RS16949** and **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**RS16942**

**Senator Geddes** stated that this legislation deals with a 20% rebate for the film industry for economic development here in Idaho. It will establish an economic stimulus for the film industry to do business. Initially an appropriation will need to be made to allow this to occur. Currently, our neighboring states as well as other states, have provided an incentive for the film industry to do business in their states. **Senator Geddes** added

that Idaho is missing an opportunity to benefit from the influx of money and generate media production.

**MOTION:** **Senator Davis** made the motion to print **RS16942**. **Senator Stennett** seconded the motion and the motion carried by **voice vote**.

**RS16974C1** **Chairman McKenzie** stated that he would like to hold **RS16974C1** for possible changes.

**RS16795C1** **Senator Jorgenson** presented **RS16795C1** to the committee. **Senator Jorgenson** stated that this legislation will address employment verification, state contractor employment verification, health and welfare benefits, unemployment insurance, and correctional actions in public education. This is all facilitated by the safe program and if it is implemented, it will send a strong message to the public, that illegal immigration is not tolerated in the state of Idaho. Business in Idaho will be encouraged to hire only legal workers, and it will ensure that taxpayer dollars are not funneled into the pockets of illegal aliens. It will make Idaho employers aware of a free and useful tool to assist them in complying with federal employment laws. Finally, it helps ensure that jobs are available to those who are legally entitled to work in our state and nation.

**MOTION:** **Senator Geddes** moved to print **RS16795C1**. **Senator Jorgenson** seconded the motion and the motion carried by **voice vote**.

**ADJOURN:** There being no further business before the committee, **Chairman McKenzie** adjourned the meeting at 9:52 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** February 16, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:01 a.m.

**GUBERNATORIAL APPOINTMENTS:** **Jeff Anderson** who was appointed as the Director to the Idaho State Lottery Commission addressed the committee. **Mr. Anderson** stated that he has lived in Idaho for ten years. Professionally he was in the broadcasting industry for twenty-five, and most recently as the Vice President and General Manager of Idaho's two largest CBS affiliates in Boise and Idaho Falls. In that role he had experience in areas that are similar to what the lottery faces with technology, marketing and sales, managing expenses, and delivering products. **Mr. Anderson** added that personally he has been married for twenty-five years, he has three grown daughters and his son attends Boise State University. He has only been on the job for six weeks, but he has been in contact with the Nez Perce tribe and plans to work with the tribes, find a common ground, and build relationships as it relates to gaming.

**Chairman McKenzie** thanked **Mr. Anderson** and advised him that the committee would vote on this appointment at the next meeting.

**Major General Lawrence F. LaFrenz** addressed the committee regarding his reappointment as the Commanding General of the Idaho National Guard. **Major General LaFrenz** stated that he enlisted in the Idaho National Guard in May 1966, and he attended Officer Candidate School in Fort Benning, Georgia. He received his commission as a Second Lieutenant in 1968, and since that time he has served in leadership and staff positions including platoon leader. Additionally, he was a company commander, battalion commander, and deputy commanding general for Idaho.

**Major General LaFrenz** continued and stated that over the coming years the Idaho Army and Air Guard will continue to face numerous challenges. Deployments, transformations, have and will continue to have significant

impact on the scope of their missions. The Bureau of Homeland Security will continue to face a myriad of terrorism and or national disaster preparedness issues, as they continue to secure the nation and state in the global war on terrorism. There is no substitute for readiness, so ready they will be and maximize all the assets available, in order to provide realistic tough and demanding training to save lives and ensure mission accomplishment.

The Bureau of Homeland Security will also continue to work with the federal, state, and local partners to ensure that training, equipment and support mechanisms are in place to better enable the people of Idaho to effectively and efficiently respond to any domestic threat to our homeland. The National Guard and Bureau of Homeland Security will modernize and improve the technology infrastructure, in order to enhance situational awareness and generate a common operating picture to enable first responders, state leadership, and when needed, federal partners. Change will likely be the norm rather than the exception, but through it all a number of things will not change for Idaho's military.

**Major General LaFrenz** summed up and stated that they are committed to their soldiers, airmen, employees and their families, and they will never be sacrificed. They will continue to maintain the integrity, devotion to duty, never violating the honor, respect and the trust of the people of Idaho or America.

**Senator Davis** asked the **Major General** when our troops return from Iraq, is a substantial amount of resources left, what action is being taken, or are we substantially short even now. The **Major General** responded that we are short of equipment. We are updating it, but on the other hand there has been losses due to the global war on terror, and some equipment has been left behind. It takes approximately eighteen months to receive equipment after it has been ordered.

**Senator Davis** asked if we have the resources available to meet a state disaster. The **Major General** answered yes we do. The majority of equipment that is missing isn't what is needed to respond to a state disaster. The issues they are having relate to combat and some communication equipment. They have some equipment coming from the state and federal, which will assist with first responders. A decision was made to maintain the older equipment and it will be supplemented with the new equipment. The typical disasters such as fires, flooding, snow, or winds can be handled with the equipment they have, and they can respond effectively and quickly.

**Senator Little** asked the **Major General** if everyone is on the same page with the forty million dollars that the Governor has allocated for communications. The **Major General** answered that it is not part of the state military division. Additionally, he has not seen the details of that.

**Senator Geddes** stated that he wanted to personally compliment the **Major General** and those who work so closely with him. He is continually amazed and impressed with the level of professionalism that the Guard

demonstrates under his leadership. **Senator Stegner** added that he also wanted to thank the **Major General** for his quick response to his inquiries.

**Senator Stennett** asked the **Major General** what is the ten year average membership in the Guard, and what is it today. **Major General LaFrenz** answered that two years ago when he took over the army it was about 89 to 90%, and the air was about 94%. Currently, the army guard is 100% and the air national guard is 96 to 97% of operating strength. The flying units are over strength, but the Idaho guard is in a good position overall.

**Senator Stennett** asked how many individuals are members of the guard. **Major General** responded that they are pretty close to fourteen hundred in the air guard and approximately thirty two hundred plus in the army.

**Senator Stennett** asked what about new recruits. The **Major General** replied that they have had a phenomenal year for recruitment. The young people today are very patriotic.

**Senator Darrinington** stated that the building fund tries to remodel at least one or two armories a year. He asked the **Major General** to comment on that as well as Afghanistan because there isn't much news in that regard, and if they have been involved in dangerous missions. The **Major General** replied that great strides have been made in the improvements to the armories throughout the state. They have remodeled and brought them up to code. They have expanded and have a unit in Sandpoint and they are working with the federal government to build a permanent structure there. With regard to military action in Afghanistan, the troops are doing a phenomenal job but not without risks.

**Chairman McKenzie** advised **Major General LaFrenz** that the committee would vote on his reappointment at the next meeting.

**S1053**

**Senator Davis** asked the Chairman if the bill could be held over for one week to allow additional time and conversations with the Treasurer.

**Senator Davis** made a unanimous request to hold **S1053**. There being no objection, **Chairman McKenzie** stated that **S1053** would be held until Friday, February 23.

**CONFIRMATION  
VOTE:**

The reappointment of **Lois Bauer** as the Administrator of the Idaho Commission on Aging was before the committee.

**MOTION:**

**Senator Stennett** made the motion to confirm **Lois Bauer's** reappointment. **Senator Jorgenson** seconded the motion and the motion carried by **voice vote**.

**MOTION:**

**Senator Geddes** moved to confirm **Mack Redford** to the Public Utilities Commission. **Senator Stegner** seconded the motion. The motion carried by **voice vote**.

**MOTION:**

The confirmation vote of **James M. "Dyke" Nally** was moved by **Senator Malepeai**. **Senator Jorgenson** seconded the motion and it carried by **voice vote**.

**PRESENTATION:**

**Garrett Nancolas**, Chairman of the Idaho Emergency Communication Commission gave the annual report to the committee. **Mr. Nancolas**

provided a handout of the annual report and stated that in the back there is a glossary of terms. The ECC (Emergency Communication Commission) was formed in 2004 under Idaho Code 31-4816. There are fourteen members on the commission and three are members by nature of their position, the Director of the Idaho State Police, the Adjutant General, and a representative of the Attorney General's Office or their designees. The other members represent certain interests in the ECC. The members that have been appointed take their responsibility very seriously. **Mr. Nancolas** stated that decisions are not made arbitrarily. The commission had ten meetings this past year, which they held throughout the state to include public participation.

**Mr. Nancolas** continued and stated that the operations of the commission is based upon the assessment of one percent of all 911 fees collected in the state. The commission hired a project manager this past year, **Eddie Goldsmith**. **Mr. Goldsmith** visited all forty-seven Public Safety Answering Points (PSAPs) in Idaho to assess their needs. Forty of these PSAPs are run by their respective county sheriff's office, six are individual city PSAPs run by their respective police departments. The one exception is the City of Moscow who contracts with a consolidated PSAP in Pullman, Washington.

The need for funding for Enhanced 911 across the state is dramatic, and the commission is proposing legislation this year to discuss legislation for Voice over Internet Protocols (VoIP). VoIP is becoming more prominent throughout the state and it is difficult to locate when an emergency 911 call is generated. Using the data collected by **Mr. Goldsmith's** visit, the commission plans to develop a strategic plan to improve the effectiveness and reliability of the E911 (Enhanced 911) systems. As the commission moves forward they will use the funds wisely to assist those in need, and improve the 911 system statewide.

**Senator Little** asked **Mr. Nancolas** what fee revision is needed for the VoIP. **Mr. Nancolas** responded that he would like to refer that to **Mr. Goldsmith**. **Mr. Goldsmith** stated the VoIP is fairly new to the 911 industry and they are basing the fee on a maximum of one dollar per customer. At this time they are not sure how many VoIP systems are in the state. They have identified VoIP providers and there are more of them than cellular providers. This technology is just getting started and in the 911 environment, they are looking at VoIP to be implemented within three to five years.

**Senator Little** stated if everyone converts to VoIP basically the commission is broke. **Mr. Nancolas** replied that is correct. The other issue of great concern is that wireless phones and prepaid minute cards are exempt from any wireless fee. Additionally, more and more 911 calls are coming in from cell phones. **Senator Little** asked if they are going backwards as far as coverage for emergency calls. **Mr. Nancolas** replied that he thinks that is a fair assumption. The number of land lines continue to drop for many reasons, which creates an obstacle for providing E911 statewide. **Senator Little** asked if the commission was going to research what other states are doing in this regard and return next year. **Mr.**

**Nancolas** answered yes, that is correct.

**H0061**

**Treasurer Ron Crane** stated that this legislation allows the State Treasurer to pay expenses related to the administration of the Idaho Municipal Bond Bank, from the State Treasurer's regular appropriation. Currently expenses can be paid only from fees generated by the Bond Bank itself. The concept is to bundle an underwriter, a paying agent, financial advisor and bond council, and have the treasurer issue one bond in lieu of that, have it rated, and pass the savings on to the local municipality.

**Senator Little** asked **Treasurer Crane** if he was asking for the authority to do this and not for money. **Treasurer Crane** answered that is correct.

**MOTION:**

**Senator Little** made the motion to send **H0061** to the floor with a **do pass** recommendation. **Senator Malepeai** seconded the motion. The motion carried by **voice vote**.

**RS17009C3**

**Senator Fulcher** presented **RS17009C3** to the committee. **Senator Fulcher** stated that this addresses a particularly rare and contentious method of annexation. It is a big issue in his district and others around the state. This bill would provide a mechanism under which certain circumstances citizens could have a voice.

**Senator Stennett** asked **Senator Fulcher** why is five acres in the bill and what would it do for someone with six acres. **Senator Fulcher** answered this is not going to change much in that regard, unless it has to do with an involuntary annexation. **Senator Fulcher** stated that he does not know about the specifics of five acres.

**Senator Malepeai** stated cities go through a process to annex land. He asked **Senator Fulcher** what does your bill do to change that. **Senator Fulcher** answered when a city is trying to proceed with an involuntary annexation, the citizens would have the ability after a series of events to have the annexation put to a vote. The intent is to put fairness into the system. **Senator Malepeai** asked if there is any circumstance where a city can annex without a vote. **Senator Fulcher** replied that this would not impact about 95% of the annexations that take place today.

**Senator Little** asked **Senator Fulcher** if he had checked for the constitutionality of this change. In Article 11, Section 8, it states that the right of eminent domain should never be abridged. **Senator Fulcher** answered that he had this reviewed by legal counsel, but not by the Attorney General.

**MOTION:**

**Senator Geddes** moved to print **RS17009C3** and **Senator McKenzie** seconded the motion. **Chairman McKenzie** asked for a roll call vote to be taken.

Senator Darrington - Absent  
Senator Geddes - Aye  
Senator Davis - Absent  
Senator Stegner - Nay



Senator Little - Aye  
Senator Jorgenson - Aye  
Senator Stennett - Nay  
Senator Malepeai - Nay  
Senator McKenzie - Aye  
The **motion carried** to print **RS17009C3**.

**RECOGNITION:** **Chairman McKenzie** stated that one of the essential and important parts of the committee is the page and the contribution they make. **Alaine Walker** has been an exceptional page and she has done a great job. **Chairman McKenzie** added that he has personally been impressed by her maturity and that she is a great addition to the Senate and this committee.

**Alaine Walker** stated this has been the best job she could have possibly ever had. You are paid for having fun. She added that she has enjoyed her time immensely. The whole process interests her a great deal. **Chairman McKenzie** presented **Alaine** with a letter of recognition from the committee.

**MINUTES APPROVAL:** The minutes for February 2, 5, 7, and 9 were presented for committee approval.

**MOTION:** **Senator Geddes** stated that he had read the minutes of February 2, and find them to be in order and very accurate. He moved to approve the minutes and **Senator Jorgenson** seconded the motion. The motion carried by **voice vote**.

**MOTION:** **Senator Little** moved to approve the minutes of February 7, as written and without flaw. **Senator Geddes** seconded the motion and the motion carried by **voice vote**.

**MOTION:** **Senator Stennett** read the minutes of February 5. He stated they were accurate and he moved to approve them. **Senator Jorgenson** seconded the motion. The motion carried by **voice vote**.

**MOTION:** **Senator Jorgenson** moved to approve the minutes of February 9. **Senator Geddes** seconded the motion and the motion carried by **voice vote**.

**ADJOURN:** There being no further business before the committee, **Chairman McKenzie** adjourned the committee meeting at 9:03 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** February 19, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:04 a.m.

**GUBERNATORIAL APPOINTMENTS:** **Bud Tracy** who was reappointed to the State Building Authority addressed the committee regarding his appointment. **Mr. Tracy** stated that this is his third term. The role of the Authority is to manage, help finance, construct and acquire property for the state. They have accomplished a great number of projects over his past two terms and he looks forward to continuing to work with the Authority.

The committee had no questions for **Mr. Tracy**. **Senator Geddes** stated that we know **Mr. Tracy** very well. **Chairman McKenzie** advised **Mr. Tracy** that the committee would vote on his reappointment at the next meeting.

**Brad Foltman** addressed the committee. **Mr. Foltman** was reappointed as the Administrator of the Division of Financial Management. He stated that initially he was introduced to state government thirty-seven years ago when he started with Aeronautics. **Mr. Foltman** added that he has also worked for Fish and Game, but for the past twenty-five years his experience has been in the budget office of the Division of Financial Management.

**Senator Stennett** asked **Mr. Foltman** what plans he had regarding the budget and policies for human resources. **Mr. Foltman** answered that there is a very good integration that is possible with combining the functions of the budget, and the financial part of the operations of state government. The employee work force is the major expense of the state. Policies and financing of that is a natural integration. The current structure has worked in the past, but at the agency level they would like to see human resources integrated with budget and policy, so they know what the cost will be. That will be a major benefit as they go through the integration. Under the Governor's proposal will be the information

technology part, which he believes is a natural function. Many areas are in competition such as the budget, human resources, and information technology as a uniform total package. **Senator Stennett** asked **Mr. Foltman** if all benefits will be the same and how long will it take before it will go into effect. **Mr. Foltman** replied that he believed it will take a little time. There is some confusion with regard to the work force. Basically the Division is speaking to the issues of classified employees of state government. It is a major component, but it is not the only one. Policies need to be sorted through, but the ultimate goal for the reorganization is that the state needs to be viewed as a single employer. Then policies and practices will be consistent across the agencies.

**Chairman McKenzie** thanked **Mr. Foltman** for speaking to the committee, and advised him that the committee would vote on his reappointment at the next meeting.

**Keith Johnson**, from the Department of Administration addressed the committee regarding his appointment as the Director. **Mr. Johnson** stated that he has served as the State Controller and has been involved in the government for approximately seven years. He has worked in various levels of government and feels that he has a good understanding of how the process works. His appointment may be limited due to the Governor's agenda to devolve the department. Functions that are currently under the department will be assigned to other state agencies, and they will create a division of general services within the Governor's executive office. **Mr. Johnson** stated that his role will be to assist in executing that plan. He will do some of the business analysis, to make sure that what is proposed makes good sense for state government, and that it provides the quality of services that are expected. In addition to that he will make sure that the right people are in place.

**Senator Geddes** asked **Mr. Johnson** to give the committee an idea of the timing on this. **Mr. Johnson** answered that the initial plan was to try and complete it this fiscal year, so that starting in July the structure would be in place. There is legislation that has been drafted and should be coming forward, with the intent to complete as much as possible in this session. It may however take additional time and they need to have discussions as well as more analysis done.

**Senator Little** asked **Mr. Johnson** if he had a rough idea of how many code changes will be needed to do away with the Department of Administration. **Mr. Johnson** replied that he does not have an exact number but there are a significant amount of changes. Every reference to the department needs to be reworded in code, and those are more or less housekeeping changes.

**Senator Stennett** stated one concern he has is with the purchasing authority. He asked **Mr. Johnson** who will be responsible for this process and make sure that we have a watchful eye. **Mr. Johnson** answered that there will still be a state bureau of purchasing. It is a division within the department and the centralized state procurement process will remain. The Governor wants to distribute more responsibility and accountability to

state agencies for the procurement of more routine processes and save money. There is no change to the state's competitive bidding or procurement laws that are being proposed in this evolution.

**Chairman McKenzie** thanked **Mr. Johnson** and advised him that the committee would vote on his appointment at the next meeting.

**RS16983C1**

**Senator Bastian** presented **RS16983C1** and stated that it arises out of the situation where property has been surveyed. This bill will add a requirement that a record of survey will show a description or graphical representation, or both, of discrepancies between boundary lines, and fence lines, or other evidence of partition of property. This will assist those considering the purchase of property by informing them of conditions that may be an adverse possession, of a portion of the property under consideration.

**Senator Davis** asked **Senator Bastian** if he was suggesting that when a property owner installs a fence, a survey needs to be done, have the contractor certify it, and then record both instruments. **Senator Bastian**, answered no, this is not the requirement of this legislation. This requires that when a survey is done and there is a discrepancy between the survey line and a fence line, that it be reported in the survey. **Senator Davis** stated when plats are approved and recorded they contain the description and designation of each lot. It is not uncommon for a property owner to eyeball it and put up their fence. He asked **Senator Bastian** if the prospective buyer is put on notice of what they are buying. **Senator Bastian** responded that he believes the typical buyer is not aware that they may need to be looking for a fence line. This requirement would assist them in being aware of the fence line before making the purchase.

**Senator Darrington** asked **Senator Bastian** if the fence line would have legal standing as well as the legal survey. **Senator Bastian** answered that he believes Idaho law is followed. Last year a change was made requiring the fence line to be established for twenty years, in order for it to have the same standing as the survey line.

**MOTION:**

**Senator Davis** stated he does not have a problem printing the RS. But he asked that **Senator Bastian** speak to him regarding this so he can have a better understanding of what the intent of the legislation is and what it does. He made the motion to print the **RS16983C1**. **Senator Stegner** seconded the motion and it carried by **voice vote**.

**S1098**

**Senator Little** addressed the committee and stated that this bill will correct a small error that happened after the endowment reform. Escheated funds and unclaimed shares and dividends have been accruing in the General Fund. The constitution states the funds are to be deposited in the Public School Permanent Endowment Fund. This code change will make that correction in the statute to align with the specific language in the constitution.

**Senator Stennett** asked **Senator Little** if the funds have been deposited into the general fund over the past ten years, and if this will repay the monies to the endowment fund. **Senator Little** answered yes.

**Senator Davis** moved to send **S1098** to the floor with a **do pass** recommendation. **Senator Jorgenson** seconded the motion. The motion carried by **voice vote**.

**S1123**

**Chairman McKenzie** presented **S1123** to the committee. **Chairman McKenzie** stated this bill will protect the income of police officers who are hurt on the job. This is an issue and this bill provides for the difference between their salary and what worker's compensation provides. Additionally, the fund would cover their medical benefits. Certain jurisdictions already provide for this, but a lot of smaller jurisdictions do not. **Chairman McKenzie** stated this is important for all communities and it shouldn't matter who you work for when you are injured on the job.

**Chairman McKenzie** continued and stated that the funding source for this would be a fine on a misdemeanor and felony convictions. The past four years were reviewed and used as a model for the funding. The definition covers an officer who is injured during training as well as on the job. Some concern has been expressed regarding what agencies should be eligible for this fund. This is a valid question, but distinctions are made with regard to individuals and class basis all of the time. **Chairman McKenzie** added that the funding source is appropriate. It is based on those who cause the expenditure and it places the cost on them, rather than the taxpayers.

**Joel Teuber** who represents the Fraternal Order of Police addressed the committee. **Officer Teuber** stated that they looked at several options for this bill such as PERSI and the State Insurance Fund. The legislature seemed to be the best fit to accomplish this. Approximately one thousand five hundred officers are shot or injured every year in the United States, and one officer is killed every fifty-three hours. He thanked the legislatures in Idaho, because they do take good care of their families when they are killed in the line of duty. But **Officer Teuber** added, that the short fall is when they are injured, and that is what this bill is all about. Eleven out of one hundred officers are assaulted every year and six hundred are injured on the job.

**Officer Teuber** continued and stated they understand as officers the risks that are part of the job, but they should not have financial hardships in addition to that. Their focus when facing a dangerous situation should be on the job at hand. A lot of agencies do provide for this benefit and it is at the taxpayers expense, and it comes out of their budget. **Officer Teuber** stated he broke his leg a year and a half ago, and the City of Boise picked up his full salary. The money that comes out of their budget could be used to fight crime. Under this fund, the city can recover those costs. The taxpayers, agencies and officers will all benefit, and it is a good retention tool for the officers in Idaho. This does not affect infraction fines, it is for misdemeanor and felony convictions.

**Senator Davis** commented he has concerns and maybe **Officer Teuber** could address them. He has seven hurdles to overcome before he can support this legislation.

1) The language as to performance of duties is too broad.

- 2) The excluded employees.
  - 3) Who is next.
  - 4) An officer does not have an incentive to return to work.
  - 5) The taxability of the income.
  - 6) This could lead to a breakdown in addressing worker's compensation issues for state employees.
  - 7) What about other state employees such as the department of corrections, probation and parole.
- Senator Davis** asked **Officer Teuber** to answer what he possibly could and maybe someone else could answer some of the other issues that he has.

**Officer Teuber** answered that on performance of duties, it is virtually impossible to limit it to include where officers need it and deserve it, versus where they do not. They looked at the dangers officers face on a day to day basis such as shutting down the connector, because it is iced over. Putting flares and cones up puts an officer in a very dangerous position. Another example is when an officer assists someone with a flat tire on the roadside. It is not just officers who are shot, run over or stabbed. We believe the officers are deserving and would ask you to support this legislation. **Officer Teuber** stated that he could not address the dangers of other jobs or who else would be deserving. As for the disincentive to work, most officers want to return to work. The worker's compensation doctors decide when an officer can return to work. The officers want to return to work and be on the street and fight crime. This does not apply to the department of corrections or probation and parole.

**Paul Jagosh** who also represents the Fraternal Order of Police, stated that **Officer Teuber** explained the on duty impacts fairly well. The difference is when someone runs into a courtroom and starts shooting. Everyone runs from the scene and it is our job to stand between the innocent person and the bullets. **Officer Jagosh** told the committee of an experience he had when he was chasing someone who was shooting at him. The department is having a hard time recruiting someone who will step up and do that. There isn't any one agency across the state who is not struggling with retention and recruitment. Currently they have twenty-six vacancies in the department, and they are having a difficult time recruiting. This bill is a way they can provide for those who do the job if they are injured, and so their families do not have to suffer a financial loss.

**Officer Jagosh** continued and stated that most officers want to return to work as soon as they can. But the ultimate decision is up to the doctor and when they return to work the benefits cease. The Deputy Attorney General, James Blair, from the Idaho Industrial Commission advised him that as he reads this, they should not be concerned with taxes or cancelling of benefits. The Idaho State Tax Commission also reviewed this, they are not here today, so they must be comfortable with it. They met with the Industrial Commission, the agency that will be administering this. They suggested some changes which they made. The Victims Compensation Administration group spoke with **Senator McKenzie** and advised them that they have the means and the software to do this.

**Officer Jagosh** stated that he does not know all the mechanics of worker's compensation and how it is computed, but he trusts that when the Idaho Industrial Commission tells him they can do this, he leaves it to the professionals.

With regard to setting a precedent, **Officer Jagosh** stated that has already been set by the state retirement system. All PERSI employees retire under the rule of 90. This means your years of service plus your age at retirement equals 90. Police officers can retire at the rule of 80. So the precedent has been set that their job is dangerous. This bill sets up a supplement fund for officers who are injured. There may not be a difference between worker's compensation and their wages. If they make below the state cap, then they won't need to use the fund. Additionally, after fifty-two weeks the worker's compensation benefit is lowered, and in some cases the officers must pay for their families medical premium.

**Senator Darrington** asked **Officer Jagosh** if the Industrial Commission would make the award for benefits. **Officer Jagosh** answered yes, that is correct. **Senator Darrington** asked if the commission had the latitude to establish the rate of the benefit, and would they also give increment raises for long term disability. **Officer Jagosh** replied no, this only applies to temporary disability.

**TESTIMONY:**

**Ron Winegar**, a thirteen year veteran of the Idaho State Police, stated he was shot about nine years ago in the line of duty. As a result of the injuries, he has some permanent nerve damage. It took about five months to recover and return to work. During that time he was fortunate to be employed by a department that made up the difference between worker's compensation and his base salary. If not, in all likelihood his family would have faced serious financial struggles. **Officer Winegar** added that if this were to happen to him today, he would probably receive only 29% of his salary from worker's compensation because of the cap. His family would be adversely affected, so he appreciates working for a department that provides for that, but many do not have that benefit. **Officer Winegar** encouraged the committee to pass **S1123** and transfer the burden from the taxpayers to the persons who commit misdemeanor and felony crimes.

**Jim Smith**, Police Chief of St. Anthony, testified in support of **S1123**. **Chief Smith** stated this is an important issue for his department. They have a small force and budget, and temporary disability is not covered.

**Tim O'Leary**, the Human Resources Manager for ISP, stated that he is here today to support **S1123**. Current statute requires that they pay officers who are injured in the line of duty for only twelve months. If temporary disability continued longer than twelve months, this would assist in paying the officers. **Mr. O'Leary** added that he has a concern that this bill does not address the employment status. After twelve months PERSI benefits end as well. Based on the fact that this would expand the coverage for his officers, it is terrific. There are some exclusions in the statute, if an officer is injured at the hands of a second party. Another shortfall that concerns him is that this is for temporary

disability. There is a federal program that covers officers who are totally and permanently disabled as well as PERSI. **Mr. O'Leary** stated that in the Department of Justice's cite for law enforcement officers, for permanently or totally disabled, it is defined as comatose or quadriplegic. There is nothing in between for those who have had their law enforcement career taken away from them.

**Senator Davis** commented that the ISP has a standard that is completely different. He asked **Mr. O'Leary** if he was suggesting that this bill be amended to include that as the standard. **Mr. O'Leary** answered that if this bill is accepted as is, he has no problem because it expands the coverage for ISP. As a practical matter and taxpayer, he would not have a problem amending it to include the kind of language they have.

**Senator Davis** asked **Mr. O'Leary** if this bill would be an expansion of benefits for ISP, or does this apply only if "at the hands of a second party" was applied. **Mr. O'Leary** stated that as he reads this, this is a better benefit than the ISP's current statute. Additionally, **Mr. O'Leary** stated that he does not see a time limit, which he supports. **Senator Davis** asked what is the time limit for ISP. **Mr. O'Leary** replied it is twelve months. **Senator Davis** asked **Mr. O'Leary** what about the tax consequence to the officer, and if he thinks the entire benefit would be taxable, or only the difference between what they receive from worker's compensation and the fund. **Mr. O'Leary** answered that for ISP officers it becomes their salary and 100% is taxed, and because they issue their paycheck and worker's compensation reimburses them. **Mr. O'Leary** suggested cutting two separate checks so the worker's compensation portion would not be taxed. But adversely it would affect your status with PERSI.

**Bryan Lovell**, a deputy sheriff with the Bonneville County sheriff's office asked the committee to support **S1123**.

**Curtis Homer**, Chief of Police for Nampa stated that this bill would be a tremendous asset for his officers. It is important to protect the people who protect us. We need to assist them through the process as they recover from an injury. During his thirty-three years of law enforcement he has seen a lot of officers get hurt, and many who did not have this type of coverage would lose their home or file bankruptcy. **Chief Homer** added that the City of Nampa passed this two years ago. This will not provide everything, but it would maintain their base salary.

**Senator Stegner** asked **Chief Homer** if the City of Nampa has this benefit now for their officers. **Chief Homer** answered yes, we started this about two years ago. We keep them as a full time employee so they can continue to receive their insurance and benefits.

**Senator Jorgenson** asked **Chief Homer** what is the cost to the city. **Chief Homer** answered he does not have the exact numbers on that. Two police officers have used this and we have it set up to review after six months, and extend it if needed. One officer used this for only two weeks.



**Senator Jorgenson** stated he understands that Boise Police Department and that ISP provides temporary disability. He asked if someone could answer how many departments provide temporary disability and the cost. **Officer Jagosh** answered that for Boise approximately twelve officers are injured per year. For the past three years it cost the taxpayers \$46,000. As far as other agencies, some provide for a limited time, others do not. They just want to create uniform policy across the state, so that no matter where you work you will receive 100% of your salary if you are injured.

**Bill Braddock**, Chief Deputy of Boise County Sheriff's Department, stated that he retired from the Boise Police Department as Commander after thirty years there. The past four years he has been with the sheriff's department. **Chief Braddock** added that he has some insight into the difference of working for a large department. His experience has taught him that resources do change remarkably when you are in a smaller, rural agency. His deputys make \$26,000 per year initially, after one year a deputy can transfer to Boise Police Department and make \$48,000. It is hard for him to retain his deputies. His deputies express their concern to him over how they can support their families. In his department if one of his officers are injured, they are required to pay their health coverage. One officer was so far in debt that he had to use his sick, vacation, comp, and leave time driving a backhoe to pay off his debts before he could return to the force.

**Alisha Glenn**, the wife of Trooper Chris Glenn who was shot and paralyzed in December 2006, by a robbery suspect, addressed the committee. **Mrs. Glenn** stated that her husband wanted her to convey his regrets for not being here today. Idaho State Police is one agency that pays 100% after an incident or accident occurs. It gives them peace of mind to know their bills will be paid. But more importantly it affords her to stay and help and support him during his rehabilitation. She added this legislation will provide fellow officers with peace of mind so they can get on with their recovery.

**Officer Teuber** summed up and stated that someone mentioned Idaho Code 67-5340, which is the benefit for state police officers. It provides a limited benefit for officers who are injured. The language is true regarding injuries induced by a second party. But language was excluded that states it is during a chargeable misdemeanor or felony. This means if it is not chargeable, than it is not covered. They intentionally did not follow that language because of the exclusions.

**Senator Geddes** asked **Officer Teuber** when he hurt his leg, would that have been covered under the current language by the ISP. **Officer Teuber** answered yes, because he apprehended the suspect, if not, he isn't sure because the language is vague.

**Chairman McKenzie** stated that **Officer Teuber** was injured by smoke inhalation. **Officer Teuber** added that he had to take a few days off, and his agency covered his salary 100%. An ISP officer would not have been covered, because it has to be a chargeable offense. **Officer Teuber** stated this will compliment what ISP already has and go beyond the

twelve month limit, and it expands it to training injuries. The point they are trying to make is that the agencies that provide this coverage, is at the expense of the taxpayer. They would be able to request reimbursement from this fund. Additionally, it would not hold the city, county, or state entity liable if no funds are available. They will mirror the same steps as worker's compensation.

**Senator Jorgenson** stated some departments are already offering this. He asked **Officer Jagosh** if the state or the taxpayers will be paying for the expenditure that the departments currently have, or will it represent a savings to them. **Officer Jagosh** answered yes, the City of Boise will be able to request a reimbursement for the \$46,000 they have spent over the past three years. Agencies that already provide this, have worker's compensation signed over, and then they cover the difference. Then the difference can be submitted to victim's compensation and it is reimbursed to the city.

**MOTION:**

**Senator Darrington** moved to send **S1123** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion.

**Senator Stegner** commented that we are asked to make decisions on things that seem black and white. This is one of those, and this particular issue seems simple, but it has a number of long term policy decisions.

**Senator Stegner** stated that this is primarily a worker's compensation issue and it should be dealt with in those statutes. Additionally, there is a question as to whether or not this is a state responsibility. The state is being asked to take on the financial responsibility for employees that should be dealt with by municipalities. The state of Idaho already provides this benefit to the state police. This is a fee based funding method for a benefit, and this is not a sound fiscal policy in his opinion. **Senator Stegner** added that he could not support this bill in its current form because of the long term ramifications.

**Senator Davis** stated that he has concerns about the legislation as well, and as the testimony continued additional items were added to his list. Fundamentally his biggest issue is with the performance of duty standard. It is too broad, and someone who is injured on the job needs to be treated differently than someone who has a slip and fall. Idaho Code 67-5340 states the standard for Idaho State Police. **Senator Davis** added that 72-1104 is in conflict with 67-5340, and ISP may be entitled to a lesser benefit as a result of passing this bill. **Mr. O'Leary** indicated that this is an expansion for ISP. **Senator Davis** continued and said additionally that he does not understand the taxability of the benefit, as well as PERSI eligibility.

**MOTION:**

**Senator Davis** moved to send **S1123** to the fourteenth order for amendment. **Senator Stegner** seconded the motion.

**Senator Jorgenson** requested an inquiry of **Senator Davis**. He asked **Senator Davis** if this bill were to pass would it take away the incentive for city and county governments to provide what they are currently providing, and would the state be the sole provider of the funds. **Senator Davis**

answered that I believe what this legislation will do is provide the funding source from this point forward to those already doing this.

**Senator Darrington** stated in the 1980's the Victim's Compensation legislation was passed. A lot of the same concerns and questions were raised then as well as today. That particular case has worked out well although there has been some amendments.

**Senator Malepeai** added that he supports this legislation. He does not disagree with **Senator Stegner's** statement that nothing is black and white. Local government is an extension of state government and this is a state responsibility to some extent. **Senator Malepeai** added that he would support any effort to keep this legislation in play.

**Senator Little** stated that he visited with the tax commission and they indicated that this may be a zero sum gain. If worker's compensation is turned over to the municipality then it is tax free, and a taxable status for the remainder of it.

**Chairman McKenzie** stated that part of it is to hold them harmless and so they can continue on the payroll. They will keep their PERSI and other benefits.

**Chairman McKenzie** requested a roll call vote on the second motion to send **S1123** to the amending order.

Senator Darrington - Nay

Senator Geddes - Aye

Senator Davis - Aye

Senator Stegner - Aye

Senator Little - Aye

Senator Jorgenson - Aye

Senator Stennett - Nay

Senator Malepeai - Nay

Senator McKenzie - Nay

The motion **carried** by committee vote.

**GUBERNATORIAL  
APPOINTMENTS:**

The confirmation vote of **Jeff Anderson** as Director of the Idaho State Lottery Commission was before the committee.

**MOTION:**

**Senator Malepeai** made the motion to confirm **Jeff Anderson** to the floor with a **do pass** recommendation. Senator Stennett seconded the motion. The motion carried by **voice vote**.

**MOTION:**

**Senator Little** moved to confirm the appointment of **Major General Lawrence F. LaFrenz** to the floor with a **do pass** recommendation. **Senator Geddes** seconded the motion and the motion carried by **voice vote**.

**ADJOURN:**

There being no further business before the committee, **Chairman McKenzie** adjourned the meeting at 9:48 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** February 21, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** Senator Davis.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:01 a.m. He stated that he will turn the meeting over to **Vice Chairman Jorgenson** while he introduces his two RS'.

**RS17005** **Chairman McKenzie** presented **RS17005** which extends the time for write-in candidates who need to file their declaration for candidacy. By changing the deadline, county clerks will save significant printing costs. They will only need to print a write-in line for those races that actually have a write-in candidate.

**RS17010** **Chairman McKenzie** stated **RS17010** also relates to candidacy declaration, to require candidates for the position of highway district commissioner, to file a declaration of candidacy at least ninety days prior to the general election. The RS was brought to him from the clerks of Ada and Canyon County as well as **RS17005**. Both are needed to extend the time for candidates to file their declaration of candidacy. Most counties use the type of ballot where you color in the box rather than the punch card. The cost saving incurred by printing these will be significant.

**MOTION:** **Senator Stegner** made a motion to print **RS17005** and **RS17010**. **Senator Little** seconded the motion. The motion carried by **voice vote**.

**RS17046** **Senator Goedde** stated this resolution addresses Craig Wyden. He requested that a copy of the fiscal impact be handed out to the committee. This memorial is intended to intensify the resolve of the State of Idaho, for correction of the federal funding shortfall caused by the failure to re-authorize Craig Wyden funding.

**Senator Stegner** asked Senator **Goedde** what the estimation of funding would be. **Senator Goedde** replied that he is not holding his breath and that he believes we will have a tough time with this. There will be approximately sixteen million dollars of lost funding.

**MOTION:** **Senator Darrington** moved to print **RS17046** and send it to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**RS16973C1** **Senator McGee** asked the committee to hold the RS for additional work.

**RS16976C1** **RS16976C1** was presented to the committee by **Senator McGee** which relates to an interim committee to study the Idaho Department of Transportation. It will authorize the Legislative Council to appoint a committee to undertake and complete a study of funding sources, and utilization of revenues that apply to Idaho's surface transportation system. The committee will review the internal organization and administrative practices utilized by the department, to meet its statutory obligations to the public. **Senator McGee** added that the Governor made it clear in his state address that before enhanced revenue opportunities could be looked at, that he would like to see how the Department of Transportation was functioning.

**Senator Stegner** asked **Senator McGee** if it was his intention to have this returned to the transportation committee for a hearing. **Senator McGee** answered if it could be sent straight to the floor, he would not have a problem with that. **Senator Stegner** asked **Senator McGee** if he was having any problems with members volunteering time and devotion to this committee. **Senator McGee** stated that he has talked to many members of the legislature who would be interested in serving on the committee.

**MOTION:** **Senator Stegner** moved to print **RS16976C1** and send it to the floor with a **do pass** recommendation. **Senator Malepeai** seconded the motion and the motion carried by **voice vote**.

**RS16759** **Senator Stennett** stated that the purpose of this memorial is to request the President of the United States to extend the benefits of free trade, by directing the United States Trade Representative to negotiate a free trade agreement between the United States and Taiwan. Taiwan is the eighth largest trading partner with the United States and just as important to Idaho with regard to wheat and potatoes.

**MOTION:** **Senator Geddes** made the motion to print **RS16759** and **Senator Darrington** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL APPOINTMENTS:** The reappointment of **Bud Tracy** to the State Building Authority was before the committee.

**MOTION:** **Senator Stegner** moved to confirm **Bud Tracy** to the State Building Authority with a **do pass** recommendation. **Senator Jorgenson** seconded the motion and it carried by **voice vote**.

**MOTION:** **Senator Stennett** moved to confirm the reappointment of **Brad Foltman** as Director to the Division of Financial Management. **Senator Jorgenson** seconded the motion. The motion carried by **voice vote**.

**MOTION:** The confirmation vote of **Keith Johnson** to the Department of Administration was moved by **Senator Jorgenson**. **Senator Malepeai**

seconded the motion. The motion carried by **voice vote**.

**ADJOURN:**

There being no further business before the committee, **Chairman McKenzie** adjourned the meeting at 8:12 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** February 23, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** There being a quorum present, **Chairman McKenzie** called the meeting to order at 8:02 a.m.

**GUBERNATORIAL APPOINTMENTS:** **C. Kelly Pearce**, who was appointed Administrator to the Division of Building Safety, addressed the committee regarding his appointment. **Mr. Pearce** stated that his family extends over one hundred years in the State of Idaho. He was raised in Lava Hot Springs and went to work for the state when he was only thirteen years old. He enlisted in the U.S. Army and trained as a Chinese linguist, served three years with the National Security Agency, and he served fourteen months in Korea. On his return from the service, he became a juvenile probation officer, and was elected Probate Judge in Bannock County. He served there for two full terms and soon after, the state changed to a juvenile magistrate, which required him to travel the five counties in the 6th Judicial District of the state. **Mr. Pearce** continued and stated that after that, he accepted an appointment as the Executive Director of the Lava Hot Springs Foundation. This was his hometown and probably the most fun job he has ever had, serving in that capacity. He was there for five years and then became a special assistant to **Governor John Evans**, where he served as the Director of Law Enforcement. Following that, he went into private enterprise and worked for eighteen years with New York Life Insurance Company. **Governor Kempthorne** appointed him to the Idaho State Blind Commission and he served three terms until January 18, when he was appointed the Administrator for the Division of Building Safety. His background is in law enforcement and there are similarities between the overall responsibilities of the two agencies. **Mr. Pearce** added that the one thing that has become very important, is that in the law enforcement capacity, his responsibility was to respond to an incident. In his capacity as Administrator of the Building Safety, he acts before there is a need to respond.

**Senator Stennett** asked **Mr. Pearce** how he sees his position in



relationship to the devolvement of the Department of Administration. **Mr. Pearce** answered that under the devolvement, the plan is to move the Division of Public Works to the department as a bureau within the department. **Mr. Pearce** added that he believes this makes sense. If the two entities coexist together under a central administration, some processes would be sped up and there would be a cost savings.

**Chairman McKenzie** thanked **Mr. Pearce** and told him the committee would vote on his appointment at the next meeting.

**Governor John V. Evans** appeared before the committee regarding his reappointment to the (IERA) Idaho Energy Resources Authority. **Governor Evans** stated that it has been an interesting challenge serving on the Authority. The Authority has the responsibility of financing transmission lines and generating facilities throughout the state. One of the first projects they financed was the Bogus Basin transmission line that Idaho Power had. They are in the process of completing a transmission line from the Snake River generating facility, on down to the Owyhee Indian Reservation. Additionally, the Authority has a number of projects that are being considered. Trans Canada Transmission Line is considering building a line between Montana and Wyoming. Then they would run a major line down through Idaho, Nevada and on into Los Angeles. The Authority will be involved to some degree.

**Senator Darrington** asked **Governor Evans** if a federal funding program at an almost zero interest rate is still available, and if not, is that why they come to the Authority. **Governor Evans** deferred this to **Ron Williams**, from the IERA. **Mr. Williams** answered that the program is still available with favorable interest rates.

**Senator Stennett** asked **Governor Evans** to explain what role, if any, the Authority would have in developing any wind generated facilities, or other alternative energy sources. **Governor Evans** answered that they have the authority to finance those types of facilities as they come to the Authority. The Authority is interested in doing all types of renewal energy sources. It will happen in Idaho, and wind is a major consideration. In Burley there is a new Pacific ethanol plant being built, and they will produce hundreds of gallons of ethanol from corn, which is being shipped in from the Midwest. **Senator Stennett** stated that in Fairfield there is a situation where Idaho Power took over the REA (Renewable Energy Association) several years ago. No one seems to know how to pay for a transmission line. He asked how the Authority could assist the community of Fairfield. **Mr. Williams** answered that theoretically the Authority could assist Idaho Power in financing those facilities. The Authority looked at something similar south of Burley for wind facilities, and offered to help Idaho Power with that project. They didn't follow up with the offer because they probably have a reasonable financing vehicle of their own.

**Chairman McKenzie** commented that the committee appreciates **Governor Evans** willingness to serve on the Authority. The committee will vote on his reappointment at the next meeting.

**Senator Richardson** presented **RS17031** to the committee. **Senator Richardson** stated this is not about shutting people out, but to bring people in. In his research he discovered that more than ninety percent of the nations of the world have an official language. The government cannot and should not do business in every language spoken by its residents. There are three hundred and twenty different languages spoken in homes throughout the United States. Idaho lists eighty-two different languages and Ada County has forty-six different languages. Initially Idaho was comprised of many ethnic, cultural, and linguistic backgrounds, that came together because of a binding thread, and that was the English language. Many states agree that an official language can become a common language, and that is what the state of Idaho needs to do. Currently there are twenty-eight states who have English as their official language.

**Senator Richardson** continued and stated that approximately 77% of the people of Idaho support English as the official language of the state. **Senator Richardson** provided a handout to the committee to support his findings. The U.S. English Organization in Washington D.C. provided information to him, and the bills in Utah and Arizona appear to have the best language. One reason why the state of Idaho needs this, is that he believes the people of Idaho want this for unity within the state.

**Senator Malepeai** stated that he has some trouble with this RS. Growing up, English was a second language to him, and it was very difficult to learn. But as he moves through all aspects of life, English is spoken everywhere, and it is the dominant language of communication. He asked **Senator Richardson** what would this do that is not already in place in everyday life. **Senator Richardson** answered that this is not about "only" English. It is about the "official" language. If you refer to English only, than you are limiting other languages entirely. The official language means that the government takes an official position, and the language is then the official language of Idaho. This does not affect what anyone does in their business or home and there is no enforcement whatsoever. As an official language it presents an example of the direction to go forward and make this the common language of our people. **Senator Malepeai** stated English is an official language in terms of what we do, this just makes it official on paper. **Senator Richardson** stated his family is diverse in many languages. They are drawn together by English. In California they print ballots in one hundred thirty two different languages, and the state of Idaho could be forced into things of this nature by printing all things involved in government. This sets the pattern for people to follow through with English and it gives us direction as a state and save money. It is not forcing but directing people to learn English, so we have that binding thread to hold us all together.

**Senator Stennett** stated in sub part 4 the term other than English may be used when it is required. He asked **Senator Richardson** what does that mean for court interpreters, emergency rooms or other places where it may be required. Who will make that determination, explain when required, and what exactly does that mean. **Senator Richardson** answered that in certain organizations if it is part of their function, then

they can put it in other languages. For example, if someone needs a driver's license, the information can be printed in Spanish. As far as determination it would be decided by the individual organization. **Senator Stennett** asked if the requirement would apply to a court proceeding if they can't speak English. **Senator Richardson** answered that he believed relative to government actions, that it would be required.

**MOTION:** **Senator Jorgenson** made a motion to print **RS17031** and **Senator Geddes** seconded the motion.

**MOTION:** **Senator Malepeai** made a substitute motion to return the RS to the sponsor. **Senator Stennett** seconded the motion.

**Senator Malepeai** stated he didn't believe this was good for our state. People are here because they want to be, and they have to learn English to survive.

**Chairman McKenzie** requested a roll call vote on the substitute motion to return the RS to the sponsor.

Senator Darrington - Nay  
Senator Geddes - Nay  
Senator Davis - Nay  
Senator Stegner - Nay  
Senator Little - Nay  
Senator Jorgenson - Nay  
Senator Stennett - Aye  
Senator Malepeai - Aye  
Senator McKenzie - Nay

The roll call on the original motion to print **RS17031** was taken.

Senator Darrington - Aye  
Senator Geddes - Aye  
Senator Davis - Aye  
Senator Stegner - Aye  
Senator Little - Aye  
Senator Jorgenson - Aye  
Senator Stennett - Nay  
Senator Malepeai - Nay  
Senator McKenzie - Aye

The motion to print **RS17031** carried.

**S1053**

**Treasurer Crane** addressed the committee regarding **S1053**. He stated that the School Bond Guarantee Fund is maxed out and they need to raise the cap to assist school districts. The rating agency has consented to raise the cap to eight hundred million. They will be able to maintain their triple A rating because of the integrity of the bonds that are currently guaranteed. **Treasurer Crane** added there is a twenty million cap so the integrity of the pool is not destroyed. School districts that need this the most will be issued bonds under twenty million dollars. Approximately 75% of the school districts will need to use the School Bond Guarantee Fund. Because of the growth in the state, they will have to return and probably raise the cash pledge, but for now they are able to do this without raising it. The amendments that have been suggested to this bill

are a noble goal, but a flawed plan. **Treasurer Crane** encouraged the committee to send the bill to the floor unamended.

**Senator Stennett** asked **Treasurer Crane** why Arizona's rating was downgraded. **Treasurer Crane** answered that their pool became occupied by school districts that did not have strong credit ratings. As a result it brought the pool down as a whole. **Senator Stennett** asked what other consequences are there other than the obvious higher cost of the bonds. **Treasurer Crane** responded if you lose your triple A rating, there is no benefit to the school districts. The whole concept of having a school bond guarantee fund is based on the triple A rating, if you dilute that, you destroy your purpose.

**Senator Little** asked **Treasurer Crane** if the language on page two at the top needs to be changed regarding how the endowment is repaid. **Treasurer Crane** answered we have no objection to amending the formula for the repayment to the endowment fund. **Senator Little** stated his concern is that the two hundred million will be depleted pretty fast. He asked what the impact would be on the larger school districts if they would not be able to participate in the pool because of a higher rate. The pledge to a smaller school district is twenty-five times more value than it is to the larger school district. The difference is what they pay for bond insurance, is that also correct. **Treasurer Crane** deferred to **Cheryl Cook**, who is a financial advisor to the state. **Ms. Cook** answered as she understands **Senator Little** his concern is the impact on the larger school districts at a higher rate, not being able to participate in the pool. **Senator Little** replied that the twenty million dollars is a big help, but previous to this point there were districts that literally could take a quarter of the pledge. They were school districts with a great balance sheet. **Senator Little** added that this two hundred million will disappear in a few years and there won't be any assets left to the pledge. **Ms. Cook** stated it is heavily weighted right now and everyone is looking for quality bonds. It adds value to them and it saves them money. We have about half the school districts with a double A rating, and that is the reason the rating agency has taken the three times pledge and increased it to four times. Her concern is that they will probably need more than the two hundred million, but diluting the pool means the rating agency would be more inclined to not allow the four times, or maybe lower the rating to a double A. **Senator Little** stated that the larger school districts have taken a hundred million out of the pool, they will not be able to get in the pool. As their bonds go off will they re-qualify. **Ms. Cook** answered they would have to go below the twenty million and then they would get the difference.

**MOTION:**

**Senator Little** made a motion to send **S1053** to the floor with a **do pass** recommendation. **Senator Geddes** seconded the motion and the motion carried by **voice vote**.

**S1095**

**Senator Burkett** presented **S1095** to the committee. He stated that this deals with the Freedom Scholarship, which is granted to dependents of military members from Idaho who have died in combat. The federal benefits are not as complete, so the state of Idaho could assist the families with some educational benefits. The military requires their

enlisted to declare a home state. The current language requires that the military member be a resident of the state of Idaho. This bill adds a provision that states any dependent of the military who is stationed in the state of Idaho at the time of deployment, and killed in action, that their dependent would qualify for the scholarship. It is adding individuals who are on active duty and stationed in Idaho. **Senator Burkett** stated that we should treat military members who live in the state, and who serve our nation, the same as any other immigrant to the state.

**Senator Geddes** asked **Senator Burkett** if it is ever questioned when they declare Idaho as their home state, and whether or not they have any connection to Idaho. **Senator Burkett** answered that the military requires them to declare a home state, and they honor that declaration. **Senator Geddes** stated that it seems to him if someone wants to declare Idaho their home state, or some other state, there would be an advantage in doing that. He asked why would we want to allow a situation where anyone who is stationed here, be eligible for the benefit if they could receive the same benefit from their home state. **Senator Burkett** responded the benefit is for those who reside here, go to school here, and while the military member is stationed here.

**Senator Jorgenson** asked **Senator Burkett** if the person serving in the military may have family living elsewhere other than Idaho, would they be eligible for the scholarship. **Senator Burkett** answered under this the high school student has to be a graduate of an Idaho school. **Senator Jorgenson** asked if the scholarship would have to be used in Idaho. **Senator Burkett** replied yes it would.

**TESTIMONY:**

**Karen Echeverria**, Deputy Director of the State Board of Education, stated they support **S1095**. To be eligible for the scholarship the student has to graduate from a high school in Idaho, and attend a public institution in Idaho. If a soldier is stationed in Idaho and he is killed in action, his family would have to stay here and establish residency to apply for the scholarship. The scholarship is difficult to track and the only way they know of them is through the media. When this occurs, they do notify the families, but most times the children are young and then it is difficult to keep track of them through the years before they become eligible. The State Board of Education supports this legislation and **Ms. Echeverria** asked for the support of the committee.

**Senator Little** asked **Ms. Echeverria** how is this money appropriated. **Ms. Echeverria** answered that it is from the general fund, and they request it based on the scholarship applications that they receive. **Ms. Echeverria** added that she believes it is in the Special Program which is a sub-category for the Board of Education.

**Senator Stegner** asked if the term secondary schools on line 25 was a defined statute. **Ms. Echeverria** deferred to **Dana Kelly**, from the Board of Education, and **Ms. Kelly** responded it could be a GED or other type of education as identified by the state. **Ms. Echeverria** stated a home schooled student would fall under that category as well.

**MOTION:** **Senator Davis** moved to send **S1095** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion and the motion carried by **voice vote**.

**RS17000** **Judie Wright**, Acting Administrator for the Division of Human Resources presented **RS17000** to the committee. **Ms. Wright** stated this is a result of the **Governor's** recommendation that we devolve the Division of Human Resources (DHR), and replace it with a Bureau of Human Resources within the Division of Financial Management. Additionally, they will delegate some of the other functions that DHR currently provides to other state agencies. Along with that, delegate responsibilities to state agencies that have a qualified human resource staff. Currently, agencies that have human resource staff are qualified to do a myriad of things. They would be partnered with smaller agencies. The **Governor** wants statewide policies that are consistent within all the agencies. **Ms. Wright** continued and said the fiscal impact would include eight staff in the division to carry out these duties.

**Senator Malepeai** stated that in his experience he has observed that personnel administration is a highly specialized field. He asked **Ms. Wright** what is the philosophy of the administration, when so many departments are being split off to other agencies in such an important area of human resources. **Ms. Wright** deferred to **Mike Gwartney**, who is part of the transmission team appointed by the **Governor**. **Mr. Gwartney** stated that the **Governor's** thoughts were to use existing state resources, and to utilize the human resource staffs that are already in place. At the state level the **Governor** wants four things. 1) A consistent and fair salary system, 2) retirement system, 3) healthcare system, and 4) a set of policies to address all of these issues. **Mr. Gwartney** added that in his experience, it is not unusual to merge finance and human resource departments.

**Brad Foltman**, the Administrator of the Division of Financial Management, stated that one of the issues is the anxiety of such dramatic changes. The component that comes to the division is intended to provide the umbrella for policy and practices for all agencies of state government. The division will ensure that the policies are uniformly determined and applied.

**MOTION:** **Senator Jorgenson** recommended that a committee be formed to review and hold this temporarily in committee. **Senator Malepeai** seconded the motion.

**Senator Little** stated if we move this to print, then we have a bill number, otherwise we are postponing it. **Chairman McKenzie** agreed, we can't hold the RS in committee, but we can postpone the hearing on it.

**MOTION:** **Senator Stegner** made a substitute motion to print **RS17000**. **Senator Little** seconded the motion.

**Senator Stegner** stated this is a highly anticipated bill and printing it and getting it distributed is appropriate. This is a print hearing for that purpose

and consistent with our procedures.

**Senator Davis** commented that on page 52, line 22, it states we are going to coordinate certain responsibilities with a department that does not exist. **Ms. Wright** commented yes, I see the error. **Senator Davis** asked **Chairman McKenzie** as part of the motion to print that it would include that line to be corrected. **Senator Davis** stated he would like an executive summary indicating what is being removed, what is being changed, what is being added, and for each one provide a brief explanation. This would assist in reading the bill and being able to respond.

**Senator Stennett** stated he doesn't disagree with this and the goal of how we handle consistency, fairness and benefits. He asked **Ms. Wright** why can't we do this today. **Ms. Wright** answered that this is what the **Governor** directed and the way he intends to go. **Mr. Gwartney** commented that **Senator Stennett** raised a good point. But it doesn't work that way and that is why they brought this to the legislature. They had a short period of time to do this and it is more fair to do it this way. In retrospect it has become very complicated.

**Chairman McKenzie** stated the motion is before us to print **RS17000**. **Senator Davis** asked if the motion was to include the correction on page 52. **Chairman McKenzie** asked the maker of the substitute motion if that was correct. **Senator Stegner** answered yes. The motion carried by **voice vote**.

**Chairman McKenzie** turned the committee over to **Vice Chairman Jorgenson**.

- RS17054C1** **Senator Little** presented **RS17054C1** to the committee and stated this is a slight change in the endowment part of the code, which allows the endowment. They are the vehicle of the land boards to accept new funds.
- MOTION:** **Senator Darrington** made the motion to print **RS17054C1** and **Senator Stennett** seconded the motion. The motion carried by **voice vote**.
- MINUTES:** **Senator Geddes** stated that he has read the minutes of February 12.
- MOTION:** **Senator Geddes** moved to approve the minutes as written. **Senator Davis** seconded the motion. The motion carried by **voice vote**.
- MOTION:** **Senator Darrington** made the motion to approve the minutes of February 14, and **Senator Little** seconded the motion. The motion carried by **voice vote**.
- ADJOURN:** There was no other business before the committee. **Vice Chairman Jorgenson** adjourned the meeting at 9:38 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary



## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** February 26, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:02 a.m.

**H130** **Stan Boyd**, from Ridgeline Energy, presented **H130** to the committee. **Mr. Boyd** stated that Ridgeline Energy is a wind powered development company. They worked very closely with the Department of Lands in developing this legislation. It costs approximately 1.6 to 1.8 million dollars per megawatt to build a wind tower, and most towers are 1 megawatt to 2.7. Wind development companies are very reluctant to put that kind of investment onto leased land, that has to come up for a conflict bid every ten years. The heart of the bill is on the first page, on line 27. This will allow the landlord to define what is a commercial purpose. The term commercial purpose means, any commercial or industrial enterprise as defined by the board. On line 17 it states that lands may be leased for a period up to forty-nine years for commercial purposes. This will allow the board to make that determination. At the end of the forty-nine years, the board may reject a conflict application if the lessee exercises the preference right to renew clause. The renew clause has to be in writing, as specified in the lease. The last change is the board may consider, at its discretion, individual applications rather than having to seek proposals or bids.

**Senator Darrington** stated his issue relates to the access of state lands. He asked **Mr. Boyd** if deer hunters will be allowed and would it be okay to have bullets flying around. **Mr. Boyd** answered he didn't see how it would be a problem, but maybe **Mr. Bacon** could better answer the question. **George Bacon**, the Interim Director of Idaho Department of Lands, stated that he does not see a problem with the public accessing the area to hunt. It does however seem like a bad spot to hunt if the blades were turning. They are over one hundred fifty feet off the ground from the bottom of the blade. So it probably wouldn't be any different than power line, transmission towers and telephone poles that are on state lands now.

**Senator Stennett** stated this is a major shift in policy. He asked **Mr. Boyd** why he didn't have his client come in with a specific proposal to add to the other definitions. **Mr. Boyd** answered they contemplated that and went to the Department of Lands. The way it is written now the term for commercial purposes means any industrial enterprises. Wind power is not an industrial enterprise, it is commercial. The way the state law is written now, it doesn't really cover specific commercial enterprises such as wind power. **Senator Stennett** asked if a commercial enterprise would include a hog farm, a dairy, or an elk ranch. **Mr. Boyd** answered that he believed that it would be determined by the board. **Senator Stennett** asked isn't it true that since it is on state endowment lands, that there is no local planning and zoning. **Mr. Boyd** replied that he did not know the answer to that. **Mr. Bacon** yielded to that question and he stated that in lines 20 through 26 it answers your question. Agricultural and grazing leases are defined separately. Meeting with county commissioners is defined in the code already, but he doesn't think it means they have to abide by county planning and zoning. **Senator Stennett** stated that towers were placed on state land in Blaine County, so given that, the state has not paid attention to local, county planning and zoning. This is a major change to allow any commercial opportunity to locate without first going to planning and zoning. **Mr. Bacon** replied that Blaine County was a test case of this code. We learned a lot from that process and have gone to great lengths to redevelop a relationship with them.

**Senator Little** stated a lot of time was spent on the Tamarack lease, he asked where is that in the code, and would this language take that authority away from the legislature. **Mr. Bacon** answered that he thought this code was changed after Tamarack, and prior to that every commercial venture had to be enumerated in code. This change kind of goes along the same idea and spirit of that. **Senator Little** stated he agreed that this gives the board a lot more power than they previously had. Communication site leases has been stricken, he asked what is the effect of that change. **Mr. Bacon** replied that communication sites fall under the commercial category. They don't appreciate in ten years and this makes more sense for a long term venture. **Senator Little** stated on line 19, the CREP (Conservation Reserver Enhancement Program) language states "eligible". He asked if the federal government says they are going to make all agricultural land eligible for CREP, does that mean the language regarding the ten year leases would also go away. **Mr. Bacon** answered I think that would be correct if it were an ag lease. Most of the ten year leases are grazing leases. To be eligible for CREP it would have to be irrigated land in the Eastern Idaho area. **Senator Little** stated what if the federal government comes along and says we are going to have CREP, and it is going to be set aside for wildlife, not irrigation. By using the word eligible, are we basically turning over to USDA (United States Department of Agriculture) and Congress the authority of these leases. **Mr. Bacon** replied I suspect that it would be.

**Wayne Hammon**, State Director for USDA, addressed the committee and stated that he supervises the implementation of the CREP program in the State of Idaho. **Mr. Hammon** added that here is a program that addresses **Senator Little's** concern, it is the dryland, CREP program.

The contracts that the federal government signs with landowners is for ten years. Currently, state land would be eligible for the dryland program, provided that the cropping industry dryland grazing trail under the current rule is not eligible. If it were dryland cropping ground it would be. The dryland program is only for ten years, the crop program mentioned in the bill is a fifteen year program. **Senator Little** asked by using the word eligible aren't we turning some of that over to the federal government relating to the ten year ag leases. **Mr. Hammon** answered yes, and currently we have state land enrolled in the CREP program where we pay the lease holder. They lease the land from the State of Idaho on a rental rate, then they sub lease it to USDA in the CREP program. It is limited to ag land, not grazing land.

Regarding **Senator Stennett's** question about planning and zoning, **Mr. Boyd** added that on page 1, line 22 through 24, it states that the lease shall be consistent with the local planning and zoning ordinances, in so far as reasonable and practical. **Senator Stennett** stated there isn't anything in the code that requires that. **Mr. Boyd** replied he just wanted to point out that there is wording in there that takes into consideration the local planning and zoning.

**Mr. Hammon** stated that the language added by the House of Representatives on the CREP program is a concern. Through the funding of state legislature, Idaho is approved for the CREP program. On irrigated farm ground, it is being retired and put into permanent wildlife habitat for fifteen years. One hundred thousand acres have been authorized over the Snake River Aqua area. Almost all of that has been leased and twenty five thousand acres are pending approval. The day after the court makes its ruling on the pending water case, we will have another fifty thousand acres. The state's land will be subject to the court's ruling. When the court takes away that water right, it goes from very profitable irrigated farm ground to not so profitable dryland grazing grass. There is a window where that land can be enrolled in the CREP program. CREP is a fifteen year contract and the current leaseholder only has a ten year lease. Therefore, that land is not eligible for CREP. At bare minimum we need to extend the lease to be the full fifteen years in the CREP program, or that land will not be considered. Without this change, none of the state land will be eligible for CREP, and it will revert back to dry grazing land.

**Senator Stennett** stated assuming there is a ten year lease, and the lessee has five years remaining, what benefit would it be to the state to continue to lease to them, rather than the state taking the final ten years on the contract. **Mr. Hammon** answered that the person who signs the CREP contract has to demonstrate that he has control of the land for fifteen years. Currently, the state cannot lease it without cancelling the existing contract, even though they own the land. **Senator Stennett** asked if this will override the current lease. **Mr. Bacon** responded to this question, and stated it would allow us to lease up to the fifteen years. So someone in mid term of an existing lease would probably have to have it renewed at that point, to start anew and open to conflict bidding.

**Senator Davis** commented as defined by the board on line 30, why not as an additional safeguard, indicate that it is required to be done by rule making. This would give the legislature some oversight and provide for rule making approval on those definitions. **Mr. Bacon** responded allowing the board to define what is commercial use would be part of a bigger initiative at some point, to allow those things to be defined in the lease. **Senator Davis** stated his biggest problem is "as defined by the board without any additional rule making". This indicates to me that wind power has been coming to us for a couple of years, but no one has to make the modifications to this statute. The administrative rule process can on occasion be cumbersome and difficult. But at least the legislature doesn't lose some right to participate in that process. He asked **Mr. Bacon** to help him overcome his concern. **Mr. Bacon** answered our board of directors and commissioners are also elected officials. Their process is open to the public as well as meetings and their decisions. They are sensitive to what the public says and they understand the constitutional requirements. Defining what a commercial interest is doesn't put at risk the activities that are done on state land.

**Senator Darrington** asked if the Division of Lands was subject to the APA (Administrative Procedure Act). **Mr. Bacon** answered yes, I believe they are although there were some changes made.

**Senator Little** asked **Mr. Bacon** who owns the water rights on the CREP leases. **Mr. Bacon** replied it is probably on a case by case basis. **Senator Little** asked if the board has a policy on an elk ranch relative to agricultural, and relative to commercial. Is it done in rule making or how would that be addressed. **Mr. Bacon** answered that they haven't had to address the elk farm issue, it is likely that it is an agriculture venture because it is administered by the Department of Agriculture. **Senator Little** stated the old language says "lands may be leased", so it really is to the discretion of the board as it relates to the term of the lease. **Senator Little** asked if the lease at Tamarack is for forty-nine years. **Mr. Bacon** responded that the lease at Tamarack was a twenty-five year lease, with a right to renewal for twenty-four.

**Senator Stennett** asked **Mr. Bacon** when there was a huge farm proposed for five thousand acres on state land, was it considered a commercial operation or agricultural. **Mr. Bacon** answered that he was not involved in that so he isn't sure how it was considered.

**Rich Rayhill**, representing Ridgeline Energy, addressed the committee and stated that Ridgeline Energy is the sponsor of this bill. The first permitted wind farm in the state was for thirty-seven thousand acres, and the second was for thirty-two thousand. It has about four to five hundred acres of state lands and it is permitted. Wind farms are generally too large to be contained entirely within state lands. The smallest wind farm they have is about seven thousand acres. As far as hunting is concerned on wind farms, they do not own any ground, so they do not have the right to control the ground. Most of it is on private property, and two land owners have hunting operations that are ongoing. There is hunting in the area and most are around public ground and they have no control over it.

**Senator Stennett** asked **Mr. Rayhill** if they are currently located on state lands. **Mr. Rayhill** answered we have four hundred acres in Power County, and we do not have a lease on that ground. We were in negotiations and the application is pending. Additionally, they have leases with Oregon, Wyoming and Washington State. They are making a lot of money on wind farms. **Senator Stennett** asked if the leases with those states were considered industrial or commercial. **Mr. Rayhill** replied I do not know if they make a distinction on their land, they have a wind lease that they work with them on. **Senator Stennett** asked if he had been uncomfortable with the code or has the State Land Board refused to lease to them. **Mr. Rayhill** answered that they cannot finance a project that includes turbines on state land because they are just too expensive. **Senator Stennett** asked **Mr. Rayhill** if the State Land Board would not lease to him, or was he uncomfortable with the language in the statute that exists today in order to enter into a lease. **Mr. Rayhill** responded they did not have a lease available, and they were uncomfortable going forward until they had gone through their own process.

**Chairman McKenzie** stated **H130** is before the committee. **Senator Davis** stated he wanted to weigh in on this. Legislatively he doesn't feel prepared to give exclusive authority to the board without some opportunity for legislative review.

**MOTION:**

**Senator Davis** moved to send **H130** to the fourteenth amending order. **Senator Stennett** seconded the motion.

**Senator Stennett** stated that a wind powered operation is an entirely appropriate use for state lands. But he agrees with **Senator Davis** if we give up our power we may someday rue the fact that we did that.

**Senator Little** commented the thing we might do is ask the Land Board to come back if there is new use of state land, that way the legislature is made aware of it. This is a bit of a separation of powers issue, and the problem is our responsibility to maximize returns. **Senator Little** added that he would oppose the motion to move this to the amending order.

**Chairman McKenzie** requested a roll call vote on **H130**.

Senator Darrington - Aye

Senator Geddes - Aye

Senator Davis- Aye

Senator Stegner - Aye

Senator Little - Nay

Senator Jorgenson - Aye

Senator Stennett - Aye

Senator Malepeai - Aye

Senator McKenzie - Aye

The motion carried to send **H130** to the fourteenth amending order.

**HJM 2**

**Senator Stennett** presented **HJM 2** and stated this is a memorial to support Taiwan's interest in becoming a member in the World Health Organization. Taiwan is in a better position than any other Asian country to access those assets. Idaho has a long term relationship with them and

this helps endorse their desire to become a member of the organization. **Senator Stennett** asked the committee to send **HJM 2** to the floor with a **do pass** recommendation.

**Senator Geddes** stated we have seen this language before. The country of Taiwan is still very interested in becoming part of the solution to many issues, and they do not have a seat at the table. It is a good idea as they are a technically advanced country. Taiwan is one of our allies and they have information that they can share and be part of the process and the solution.

**MOTION:** **Senator Geddes** made the motion to send **HJM 2** to the floor with a **do pass** recommendation and **Senator Malepeai** seconded the motion. The motion carried by **voice vote**.

**RS17104** **Senator McGee** stated that **RS17104** relates to last year's Criminal Gang Enforcement Act. That law lengthened the prison sentence, made it illegal to recruit gang members, supply guns to gangs and it enhanced penalties. Most often it is the gang members who are under the age of eighteen that law enforcement has the most difficulties with. The older members influence the minors to participate more, knowing that they may not be subject to the same penalties. Because of the minor status it is not clear if they can be prosecuted under the Gang Law. This change will make it clear that gang acts do in fact apply to juveniles.

**MOTION:** **Senator Darrington** moved to print **RS17104**. **Senator Little** seconded the motion and it carried by **voice vote**.

**RS17108** **Senator McGee** stated that this proposed legislation is a trailer bill to **S1138** to include a Pilot Project route that was intended to be included in the original bill. This route connects the existing northern end of current access for 129,000 pound equipment on Yellowstone Avenue in Idaho Falls, to Highway 20 at Sugar City. This route is important to the economic movement of aggregates and building material in the area.

**MOTION:** **Senator Davis** moved to print **RS17108**. **Senator Malepeai** seconded the motion and the motion carried by **voice vote**.

**RS17056**  
**RS17057** **Paige Parker** from Legislative Services presented **RS17056** to the committee as well as **RS17057**. The RS' deal with temporary rules, concurrent resolutions and fee resolutions. The fees and temporary rules do not go into effect unless first approved by the legislature. A concurrent resolution does those things. As far as the temporary rules, all were approved by the House and the Senate, with one exception. The Senate Commerce and Human Resource Committee voted to reject four sections of a temporary rule. Fee rules do not go into effect unless approved. The resolution will approve all fee rules, with the exception of one fee rule docket that was rejected by the House Health and Welfare Committee.

**Senator Stegner** commented that the rules that were rejected by the Commerce and Human Resources Committee were minor rather than major. They are not significantly burdensome on the department by their rejection. He asked **Mr. Parker** if he disagreed. **Mr. Parker** replied that the pending rules are dealt with individually and they go into effect unless

specifically rejected. Pending rules have a separate concurrent resolution, and it is up to the committee to determine if they should be rejected. He is not involved in that process.

**Senator Davis** stated that this appears to be more than just dealing with human resource related issues. This is the omnibus bill that approves all temporary rules of agencies pursuant to the Administrative Procedures Act. On line 17 at the end, it indicates "were reviewed during the 2007 legislative session, and all temporary rules previously approved and extended". **Senator Davis** commented that he is reading this as the concurrent resolution to approve all temporary rules. The only temporary rule that is being rejected is on line 22 through 27. He asked **Mr. Parker** if he was reading that correctly. **Mr. Parker** answered yes, this approves all the temporary rules except for the four specific rules that the Senate Commerce and Human Resource Committee rejected. **Senator Davis** asked if out of all the temporary rules, the only ones being rejected are on lines 22 through 27. **Mr. Parker** replied that is correct. **Senator Davis** asked if every time we reject a pending rule will we have a separate concurrent resolution, that addresses the rejection of that pending rule. **Mr. Parker** responded that is correct.

**MOTION:** **Senator Davis** made a motion to print **RS17056**. **Senator Stegner** seconded the motion and the motion carried to print **RS17056**.

**MOTION:** **Senator Darrington** moved to print **RS17057** and **Senator Jorgenson** seconded the motion.

**Senator Davis** asked **Mr. Parker** if he was representing to this committee, that the only fee rule to be rejected by either body is the one contained on lines 26 through 35. **Mr. Parker** answered it is the ones on line 26 through 29, and line 30 through 35.

The motion carried by **voice vote**.

**RS17082** **Senator Stennett** presented **RS17082** to the committee and stated that this would amend Section 8, Article IX of the Constitution of the State of Idaho, to ensure public access to state lands to the extent that such access is consistent with the purposes for which lands were granted. It will uphold the judiciary responsibility of the State Land Board. Idaho is a public land and public access state for hunting and fishing, and recreation are all a big part of our heritage and culture. There are 2.5 million acres of state lands, and 1.8 of those are grazing lands with the balance being made up of timber lands. In the north, Potlatch is cutting off public access, which is their private timber land. Idaho has always recognized state land as public access as a secondary use. State lands are intended to make money, and access for public access is secondary in nature. Our constituents think or believe that, and this is an attempt to recognize the shift that has taken place since our Constitution was written over one hundred twenty years ago. Our state endowment lands have other varied uses, and public access is a presumed right of the citizens.

**Senator Little** asked **Senator Stennett** if they had approval from the House Leadership. **Senator Stennett** answered no, he has not gone to

the House. **Senator Little** stated given our rules, in order for this to go across the rotunda, House Leadership has to approve. **Senator Stennett** replied we have to take this step first. **Senator Little** commented this is an exercise in futility if the House doesn't allow this to be transmitted. **Senator Stennett** responded that if the RS meets with the committee's approval today, he will petition the residing officer to allow this to be assigned to a committee for a hearing.

**Senator Schroeder** addressed the committee and stated in a newspaper headline from last Friday in Lewiston, it stated "Potlatch sets land user fees". You must register your vehicle for \$50.00 just to access land to pick berries. The article also indicates that the Potlatch Corporation is thinking about subdividing an area called Maggie View and auction off the hunting rights to the public. Potlatch can do whatever they want because it is private land. **Senator Schroeder** continued and stated that last summer he attended a meeting in Orofino, and someone from the Department of Lands stated that state lands are not public lands. In the future you will have to pay to access them. **Mr. Bacon** has assured him that public lands are state lands and that person was mistaken. In another meeting he attended in December, it was supposed to be about ATV's (All Terrain Vehicles), but it went to public access quickly. Everyone in attendance is convinced that Potlatch and state lands are conspiring to lock up sections of land, and auction off the hunting rights to the highest bidder. Today land owners, Potlatch and the state lands are maximizing the assets, referred to as asset management. Citizens are worried because they access state lands. He is concerned that the state lands will be leased for hunting rights to the highest bidder. The people of Idaho want to be able to access state lands for hunting, fishing, and recreation and not leave it to chance.

**Senator Little** asked **Senator Stennett** what does this do. **Senator Stennett** answered this addresses the future and responsibility for the granted lands. Additionally, it is about the changes in demographics. The State Land Board still has a judiciary responsibility and it moves us from 1890 to 2007, by recognizing public access. No where in the Constitution does it state that there has to be public access. **Senator Little** stated if the land grants do not reduce the long term returns, but it reduces it by one penny, does that mean they can deny access. **Senator Stennett** responded that if the Land Board makes the determination that granting public access to a piece of property because it reduces the value of that property, they would have the authority to do that. He is just trying to put this into law today. It is sort of a given, that state lands are public lands, and they in fact are not. **Senator Little** asked what does maximizing the long term return versus access mean. How will the decisions at the Land Board meetings change with this Constitutional amendment. **Senator Stennett** replied he doesn't know how they will take this. He reiterated that his intent is that public access was not important in 1890, but it is an important concept today. The Constitution has not been updated to include that. **Senator Little** stated in response to **Senator Schroeder's** secret to the problem out there, it is to maximize wildlife habitat and to create more access. That all takes money and by enacting this, we limit the ability. The result of this Constitutional amendment is the opposite of



what the authors intend. **Senator Little** added that he will not be supporting this.

**MOTION:** **Senator Malepeai** made the motion to print **RS17082**. **Senator Darrington** seconded the motion. The motion carried by **voice vote**.

**RS17111** **Senator Jorgenson** presented **RS17111** and stated that he has been working on this for about three years. This will conform to PERSI (Public Employee Retirement System of Idaho) with respect to all of the administrative dealings, definitions and administration. Secondly, it will use PERSI to create the funding which will be one third employees and two thirds employers. The goal is to provide an enhanced retirement benefit to a person who is permanently disabled in the line of duty. The disability is defined by PERSI, and essentially this is a catastrophic bill. The enhancement is \$1,000 per month and paid to the State Insurance Fund. When an officer is injured it is covered by Worker's Compensation. But at the end of the employment period, the family would lose their health insurance program. COBRA (Consolidated Omnibus Budget Reconciliation Act) is available but only for a temporary period of time. This vehicle will put that individual on the state plan and eliminate the worry of health coverage for the family.

**Senator Little** asked **Senator Jorgenson** to explain the retroactive aspect. **Senator Jorgenson** answered that would cover Officer **Michael Kralicek** who is a quadriplegic. **Senator Little** asked how many people fall into that category. **Senator Jorgenson** replied two people in the entire state. **Senator Little** asked if every officer will have the deduction from his salary retroactive to three years. **Senator Jorgenson** responded no, it does not. The 0.14 is the total premium paid that is shared between the employer and employee. The amount of money that would be generated would be sufficient to cover that back payment. **Senator Little** asked what will be the effective date of those deductions. **Senator Jorgenson** replied he would have to defer that to **Alan Winkle**, the Director of PERSI.

**Senator Stegner** commented that he is confused about the retroactive section. How will we do this. **Senator Jorgenson** answered we are attempting to go back and make **Michael Kralicek** eligible. We are not going back and paying for any past costs or premiums. **Senator Stegner** stated if you are making them eligible as of 2004, than theoretically they could file for insurance coverage for any claims that they might have back to the date. He is not sure how you can do that. He asked if this is creating a state benefit for all police officers whether or not they are employed by the state. **Senator Jorgenson** responded yes. **Senator Stegner** asked if the intent is to provide this to all officers statewide, in addition to what their current medical insurance and benefits that are provided to them by their municipality. **Senator Jorgenson** answered that it is the intent to provide all public safety workers with catastrophic coverage by way of placing them into the state insurance plan. The revenue would come by way of PERSI levies to the employer and the employee. It would cover county, municipal, and state employees. The only additional enhancement they are getting is that their health care

coverage would be paid directly to the state plan.

**Senator Davis** commented that we looked at a similar bill regarding certain phrases and this references Title 42 U.S. Code, Section 3796. In sub part 3 it states the application for benefits shall be made to the retirement board, but the benefit won't be payable unless it is established as determined by the board. In sub part 2 he thought the determination is made. He asked **Senator Jorgenson** to clarify this for him. **Senator Jorgenson** answered part 3 was drafted by PERSI with the intent to make all their policies consistent. When permanent disability is determined it would engage this benefit. **Senator Davis** asked is the benefit in sub part 3 the defined benefit that is stated in sub part 2. **Senator Jorgenson** responded yes it is. **Senator Davis** commented then why do we have to have the board establish it if we statutorily establish it.

**Representative Wills**, a sponsor of the bill addressed the committee and stated that, statutorily he can't answer what PERSI's viewpoint is. It may seem redundant, but maybe they were inserting language to have the same kind of stipulation that is stated in section 2. **Representative Wills** added that when we speak enhancement, I am reluctant, because this is only something that happens in a catastrophic situation. The cities and counties that would be involved are only the ones under the PERSI plan.

- MOTION:** **Senator Darrington** moved to print **RS17111**. **Senator Malepeai** seconded the motion and the motion carried by **voice vote**.
- GUBERNATORIAL APPOINTMENTS:** The confirmation vote of **C. Kelly Pearce** to the Division of Building Safety was before the committee.
- MOTION:** **Senator Malepeai** moved to confirm the appointment of **C. Kelly Pearce**. **Senator Davis** seconded the motion. The motion carried by **voice vote**.
- MOTION:** **Senator Little** moved to confirm the reappointment of **John V. Evans** to the Idaho Energy Resource Authority. **Senator Stennett** seconded the motion and the motion carried by **voice vote**.
- MINUTES:** **Senator Stegner** read and approved the minutes of February 16, 2007.
- MOTION:** **Senator Stegner** moved to approve the minutes of February 16. **Senator Little** seconded the motion. The motion carried by **voice vote** to approve the minutes of February 16.
- ADJOURN:** There being no further business before the committee, **Chairman McKenzie** adjourned the meeting at 9:40 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** February 28, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:05 a.m.

**PRESENTATION:** **David Hill**, Deputy Laboratory Director from the Idaho National Laboratory gave a slide presentation to the committee, regarding the energy challenges of today and tomorrow. **Mr. Hill** stated that energy is the key to peace and prosperity. Energy consumption is growing in the U.S. at a rate slightly higher than population growth and electricity will grow at 1.5% annually. We will need coal, oil and natural gas while biofuels and renewables will be an important part of the future as well.

**Mr. Hill** continued and stated that INL (Idaho National Laboratory) was put together to be a nuclear energy lab, but they do many other things too. They do a lot of work in the national homeland security. The region is blessed with a lot of natural resources which are applicable to energy, and they have a substantial portfolio in clean energy. Over the last two years, the INL has been aggressively recruiting people. Retention, recruitment and development of a highly skilled workforce is critical to implementing the laboratory's mission. The INL is a leader in the development of clean energy technologies for our country and the region. When they look to the future from a national perspective, there will be a demand for clean energy.

The INL is working hard to put together a public and private alliance to development NGNP (Next Generation Nuclear Plant). On the private side it involves electrical utilities, retro chemical companies, and people who have an interest in getting to the resources in an efficient way. The GNEP (Global Nuclear Energy Partnership) proposes to build an international framework to support the safe and secure expansion of nuclear energy. If nuclear energy is the answer to the world's increasing demand for clean base load energy, how will the world deal with potential weapons proliferation and nuclear waste issues. The GNEP is already successful from a diplomatic point of view, as other countries have

approached our government to interact with the GNEP vision. They have changed the equation from a set of countries forming their own interest, to working together. Nuclear energy has implications for Idaho because there needs to be technology demonstration. The government is proposing three possible facilities, a plant for dealing with spent fuel, a fast reactor for burning, and a large research facility. As a laboratory they are investing heavily to secure the research facility. INL's business growth is the key to regional prosperity and public interest will be a factor as well.

A copy of the power point presentation is attached to the original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**RS17084C1**

**Senator Davis** stated that he has asked **Brian Whitlock**, from INL, to address the committee regarding **RS17084C1**. **Mr. Whitlock** stated that **Senator Davis** approached them to have a joint memorial and the idea was to look back at the history of the INL. There have been fifty-two nuclear reactors built at the site, and this acknowledges the fact that there is a long, proud history at the site. The GNEP already recognizes that Idaho is playing a lead role in the development in this. The key point in the joint memorial is that the state of Idaho wants to continue supporting nuclear research and development. INL has an opportunity to become the pre-eminent nuclear research facility in the nation and the world.

**Senator Davis** commented that his father is an electrical engineer, and in the late fifties they were transferred to Idaho Falls, where he worked for the Atomic Energy Commission. A lot of families come and go, but many stay and it is healthy for the community of Idaho Falls. INL is a significant partner and they are excited about this. The purpose of the memorial is to remind the decision makers of the long history with INL, and the continued commitment to the lab.

**MOTION:**

**Senator Geddes** moved to print **RS17084C1**. **Senator Davis** seconded the motion and the motion carried by **voice vote**.

**S1157**

**Senator McGee** addressed the committee regarding **S1157** and stated that this bill requires all persons age 18 or older, to verify their legal status in the United States before receiving state, local or federal public benefits. Illegal immigrants play and continue to play an integral and welcome role in our country's growth and development. But the key word is legal. In the last fifteen years, illegal immigration has become an increasing problem with enormous financial and social pressure on the states all over the nation, including Idaho. Of the estimated twelve million illegal immigrants in this country, the Pew Hispanic Center estimates that two thirds have been in the United States for ten years or less. Forty percent of those have been in the country for less than five years. Our systems of welfare, education, law enforcement, healthcare and unemployment benefits are being stretched, not just for tax paying citizens, but also for people who have broken the law and entered the country illegally. Then they break the law again by accessing these programs to which they have no legal entitlement. The federal government has had little success in

stopping the plight of the illegal immigrants in this country. Once they are here, it is the states, not the federal government, who must pay for these immigrants. The federal failure to solve the illegal immigration problem thus has imposed a defacto, unfunded, federal mandate on the states.

**Senator McGee** stated it is time for the states to address the illegal immigration problem on their own. Many neighboring states and across the country are doing so. Last year thirty states passed some fifty seven laws to crack down on illegal immigrants. Last December, **Governor Risch** issued an executive order, directing state agencies to provide benefits only to the people who are lawfully entitled to work in Idaho. **S1157** will write that same requirement into state law. No one has estimated the cost to provide program benefits to illegal immigrants. But it is undeniable that illegal aliens are receiving taxpayer supported funds. The Center for Immigration Studies reports that, California, which shares this problem on a larger scale, has estimated their cost to provide services to illegal immigrants was three billion dollars during a single fiscal year. The federal government requires states to provide services like education and emergency medical care, regardless of residency questions. Idaho will continue to meet those needs. But there is no federal requirement, that states must let illegal immigrants take advantage of other services such as unemployment benefits, welfare, food, and routine health care.

This legislation builds on the federal standard known as the “systematic alien verification for entitlement”, the Save Program. The Save Program gives local and state government, and businesses the tools to verify that applicants are lawfully present in the United States before granting a variety of tax supported benefits. If they can show proof of legal residency, such as an Idaho driver’s license, U.S. military id card, passport, or valid social security number, they can access the services that they need. In Idaho we must do what is necessary to solve this problem, otherwise the drain on taxpayer resources and services will continue and increase, eroding our ability to provide those services to people who are legally entitled to receive them. The immigration policy in this country is dysfunctional and broken. Thirty states have taken action based on the premise.

**Senator McGee** added that there are some amendments to this. He asked the committee to send this bill to the fourteenth amending order.

**Senator Davis** asked **Senator McGee** to address the issue of worker’s compensation benefits. **Senator McGee** replied he would like to yield to **Blair James**. **Mr. James**, Deputy Attorney from the Idaho Industrial Commission, addressed the committee and stated, that they looked at this bill and this does not impact worker’s compensation benefits. Those benefits are paid by contract by a surety on behalf of an employer. It is the employers obligation to pay for those benefits not the state.

**Senator Stennett** asked if the children who are born here, are they naturalized citizens, and are they eligible for benefits. **Senator McGee** replied yes, that is his understanding. **Senator Stennett** asked who do

they write the check to in the CHIP (Children's Health Insurance Program), and how does that fit into this program. **Senator McGee** answered that this bill has no intention of cutting off services to anyone under the age of eighteen. Children will not be denied benefits. **Bill Walker**, Deputy Director for the Department of Health and Welfare, stated that if a child is enrolled in CHIP, the checks are paid to providers for health care services. No money is given to a parent of a child in the medicaid program. **Senator Stennett** asked if there was any situation where naturalized American citizens under eighteen, who are born to illegal parents, receive a direct check from the department. **Mr. Walker** answered that would not be a likely situation. The cash assistance program, provides cash assistance to adults with dependent children or aged, or disabled adults.

**Senator McGee** stated on line 4 in the amendment, for food assistance for a dependent child under eighteen, we have cited that concern. **Senator Stennett** stated his only concern is how children under eighteen, who can't sign documents and can't receive any direct payments, that we may somehow leave them hanging.

**Senator Jorgenson** commented that this does not target anyone under eighteen. He asked **Senator McGee** if this targets any age group. **Senator McGee** answered the age is anyone over eighteen. **Senator Jorgenson** stated this bill will impact those who receive medicaid. **Mr. Walker** yielded to this question and stated this bill is an appropriate step. Everything that the department is currently doing, screens out people who are living here illegally, and they do not receive benefits. The only medicaid benefit they are eligible for is emergency medical services. No age group is being targeted other than those over the age of eighteen. As it relates to medicaid, to participate in the medicaid program, the requirements of the Federal Desperate Reduction Fund for citizenship verification, are more stringent than what is called for in **S1157**.

**Bill Innis**, Deputy Administrator from the Division of Health and Welfare, stated that since October they have declined approximately two hundred people, due to the VRA (Voting Rights Act) citizenship and identity requirement in medicaid. This doesn't mean that those individuals are not legal citizens, or that they are illegal citizens, it simply means that they chose not to provide the verification that was required to prove their identity and citizenship. The federal requirement is more restrictive than what they see in **S1157**. **Senator McGee** added this piece of legislation goes beyond the Department of Health and Welfare. This bill does two things, 1) it puts it in Idaho State Code and becomes the policy of the state of Idaho, and 2) it goes beyond just Department of Health and Welfare benefits to other areas of the state.

**Senator Malepeai** asked if there are any circumstances where a child under eighteen would be denied benefits, because their parents are here illegally. **Mr. Innis** answered no one under eighteen, who was born here to parents that are not legal citizens, would be denied benefits.

**Senator Stegner** stated that we have heard from the Department of

Health and Welfare that they are already screening for this, and that it is more stringent than this bill. He asked **Senator McGee** what other state benefits does this apply to. **Senator McGee** answered that any grant, contract, loan, professional license, or commercial license provided by an agency of the United States, or state or local government, or by appropriated funds of the United States or state or local government; additionally, any retirement, welfare, health, disability, public or assisted housing, pos-secondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided.

**Senator Little** asked do all the commissions and agencies that issue licenses, go through the process of verification. **Senator McGee** answered that he does not believe that other state agencies use the same tools as the state program. They have a verification process, but it is not as detailed. **Senator Little** asked would this be a change to them, and who would pick up that added work load for all the agencies. **Senator McGee** responded in verifying if someone is a U.S. citizen, the cost that we will recoup will be vastly greater than the fees. **Senator Little** stated the question is about who is licensed. Don't we have to ask everyone. **Senator McGee** replied if they fall under the definition of this law, they need to be asked. **Senator Little** asked who is they. **Senator McGee** answered those who come in to receive these benefits. **Senator Little** asked isn't it everyone who applies for a license. A filter needs to be created at some level. **Senator McGee** replied if it falls under the definition, then that is correct. **Senator Little** asked if every agency is going to ask everyone these questions, that they haven't asked before. **Senator McGee** responded, if it is part of the definition, than that is correct. **Senator Little** stated the standard for a driver's license is different in other states. Are we going to create a situation where everyone that comes to Idaho that wants benefits, and they have a valid license from a state that doesn't require proof of citizenship, will they make it through the filter. **Senator McGee** answered that this bill is not fool proof, but it is taking a step in the right direction to solve the problem.

**Senator Stegner** stated we license thousands through mail. Are we suggesting that the applicant will have to provide proof of citizenship, just to keep illegal aliens from receiving public benefits. **Senator McGee** answered that this bill is to try and target those who are here illegally, and taking advantage of the state of Idaho's generosity, to receive benefits. This is not intended to make it burdensome or cumbersome for an Idaho citizen to go through the process, however, it is intended to make it difficult for those who are not here legally to receive benefits.

**David Hensley**, legal counsel to the Governor addressed the committee. **Mr. Hensley** stated the intention is not to create a burden on the state in terms of what we already do. Some agencies are already on their way to meeting the requirements that this law would impose. In addition to that, thousands are licensed, and those processes are being modernized. We have examples currently in the state, where we gather information electronically, and we are able to discern who we should be concerned with. Some commissions and boards will have to come up to speed.

**Senator Stennett** asked what about the mom and pop locations that sell a hunting license. Will a social security card be required. **Mr. Hensley** answered and said he isn't sure what that process entails, but they do have to provide information including a driver's license to prove if they are an in state or out of state hunter. **Senator Stennett** asked what about those who are already in the system, will they have to provide proof of citizenship. **Mr. Hensley** responded that the Department of Commerce and Labor uses a similar technology. Some information is universal in terms of the application process, such as name, social security number, and date of birth. That information is fed through a data base and if something turns up incorrect, than a further investigation is implemented.

**Senator Little** commented that he applauds **Senator McGee**, but if we are going to talk about licenses, we should look at some of the unintended consequences before we have a third reading on the floor. **Senator McGee** responded that he would reexamine that and take a closer look if that would indeed be a problem.

**Senator Stennett** added **Senator McGee** should also investigate hunting and fishing licenses, as well as boat licenses. **Senator McGee** stated he would look at all professional licenses across the board.

**TESTIMONY:**

**Dan Chadwick**, Executive Director for the Idaho Association of Counties, testified in support of **S1157**. **Mr. Chadwick** asked the committee to send this to the fourteenth order as **Senator McGee** requested. This bill solves an issue that was brought to the legislature two years ago, with regard to county responsibility for those who are here illegally. Under existing law counties must provide medical indigent services based on residence, not on status. This bill will put counties in the same position that the state is. Rule 250, under 16-0301 of the Department of Health and Welfare, is where the emergency medical care is defined.

**Senator Little** asked in the Governor's executive order, would this bill be a change for the counties. **Mr. Chadwick** answered it would be a big change for the counties. It would save the counties and the state catastrophic program somewhere between one half million to one point five million dollars.

**Senator Stegner** stated the bill also calls for the counties to verify the lawful presence of each applicant for any county service provided at every level. Do the counties want to take on that responsibility of verifying for everything the county does. **Mr. Chadwick** replied that the only thing he can think of that is not controlled by the state, is non-medical indigent care, in terms of the county services. That is such a limited area that it would not be a burden on the counties.

**Alicia Clements**, who represented ICAN (Idaho Committee Action Network), testified in opposition to **S1157**. **Ms. Clements** stated this legislation is harmful to U.S. citizens. This legislation is directed at undocumented immigrants, but they are already ineligible for the majority of public benefits. **S1157** will create burdensome paperwork, requirements that will be difficult for U.S. citizens and immigrants to meet.



The elderly, racial minority and people with mental illness will be impacted, not undocumented immigrants.

**Adriane Wright**, who represented Catholic Charities of Idaho testified in opposition to **S1157**. A copy of her written testimony is attached to the original minutes on file in the committee office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**MOTION:**

**Senator Jorgenson** made the motion to send **S1157** to the fourteenth amending order. **Senator Geddes** seconded the motion.

**Senator Geddes** asked if the sponsor will be making a closer statement. **Chairman McKenzie** responded that is an appropriate request.

**Senator McGee** stated this has been an important debate. This bill is designed to give the taxpayers of the state of Idaho assurance, that their taxes are being spent on those who are here legally. Thirty other states have passed fifty-seven different policies that are similar to this. The federal government recognizes that this is problematic. **Senator McGee** asked for the support of the committee and send this to the fourteenth amending order.

**Senator Geddes** commented that some of the discussion implies that the state of Idaho would be required to filter everyone who applies for a license. But that is not the case, because not everyone applies for medicaid benefits. We are simply asking those who do apply for benefits to be screened to ensure that they are qualified. This reduces the burden significantly before benefits are provided. He asked **Senator McGee** if his interpretation is correct. **Senator McGee** answered yes, that is my understanding.

**Senator Little** stated I will support the motion, but this is a huge problem. The people that we want to discourage from being here have a phony driver's license.

**Senator Stegner** commented that he will support the motion as well, but that he is not as convinced as **Senator Geddes**. Will we be directing every state and local agency to verify the legal presence of each person that applies for benefits, which includes every license that we authorize in the state of Idaho.

The motion carried by **voice vote** to send **S1157** to the fourteenth order.

**S1083**

**Senator Schroeder** presented **S1083** to the committee. **Senator Schroeder** stated that this is a rewrite of an earlier bill. This bill will provide that the Legislative Council may appoint not more than ten legislative interns to receive a stipend, not to exceed one thousand five hundred dollars. They will have to be enrolled in post-secondary education in the state of Idaho, private or public institution.

**Senator Little** asked **Senator Schroeder** if there is a definition of post-

secondary defined in the language of the bill. **Senator Schroeder** replied he could not answer that.

**Senator Geddes** commented that he still has a problem with this, it just sets a different precedent than what we have done in the past. The other concern is the accommodations that we will have over the next few sessions. This is not necessarily a bad idea, it is just untimely based on what we are facing the next three years. **Senator Schroeder** stated he hears the concern and as a result on line 25, page 2, this would be at the discretion of Legislative Council may do this. This was added for that exact reason. **Senator Geddes** added, at its discretion is really a tough thing. We all know we have to have a certain level of support to occupy the positions that we are elected to. It is difficult to say no to reasonable requests.

**MOTION:**

**Senator Geddes** made a motion to hold **S1083** in committee and **Senator Davis** seconded the motion.

**Senator Davis** stated my opposition is a little different. This just isn't the right thing to do now or three years from now. We do want the interns to have the experience and he is sympathetic to all the points **Senator Schroeder** made. He was an intern, it was a great experience, and it was hard. **Senator Davis** commented that he just doesn't like this.

**Senator Stegner** stated he likes this for some of the opposite reasons that **Senator Davis** just stated. This creates some equity for students who attend institutions outside the Boise area. **Senator Stegner** added it is a good opportunity to have this experience. The stipend is a reasonably good idea. He will support this and oppose the current motion to hold this in committee.

The motion carried by **voice vote** to hold **S1083** in committee.

**RS17118**

**Senator Broadsword** addressed the committee and stated that the intent of this is to narrow the focus of the North Idaho water adjudication to the Rathdrum Prairie. Narrowing the focus of the adjudication to the Rathdrum Prairie will make certain that the highest priority need is addressed immediately while affording the citizens of the other basins an opportunity to determine if a full multi-basin adjudication would be needed or beneficial.

**Senator Davis** asked if procedurally do we have unanimous consent request from the Resource Committee to print this. **Chairman McKenzie** answered yes. **Senator Broadsword** added she went to the Resource Committee last Friday, and they voted unanimously to send this bill to State Affairs for a print hearing. **Senator Davis** commented that we did this last year. It appears that the way this is written it looks like you are trying to say is that we wanted to have a adjudication, but now that we see what it entails, we really don't's want adjudication. We just want someone else's water rights, not ours. He asked if he was mis-reading this. **Senator Broadsword** answered that he is probably right. There has been a lot of talk, confusion and mistrust of the whole adjudication

process.

**Senator Jorgenson** stated we did this last year, and I recall that you voted against it. He asked **Senator Broadsword** if she was trying to narrow the adjudication just to the Rathdrum Prairie. **Senator Broadsword** answered that there is a study to determine the source of the Rathdrum Prairie. **Senator Jorgenson** asked **Senator Broadsword** if she agreed that without doing the adjudication on Lake Coeur d'Alene there can't be a complete adjudication. **Senator Broadsword** replied, it depends on what you consider to be complete adjudication. **Senator Jorgenson** commented what he considers a complete adjudication and the purpose of the adjudication, determines what water we have. The purpose of the adjudication is to prepare us to deal with the issue of Washington state, which we are beginning to do. The adjudication that is proposed is a step by step process. The second step would take in Bonner County and thirdly a piece down in Moscow. That would complete all the adjudication in Idaho. **Senator Jorgenson** asked **Senator Broadsword** if she agreed with that. **Senator Broadsword** answered that there is no doubt that is true, however, beginning with one basin does not preclude us from doing all of the basins. **Senator Jorgenson** stated that the Rathdrum aquifer is only part of the basin we are talking about. I believe that you are proposing that we take one part of the basin and adjudicate that only, is that correct. **Senator Broadsword** replied that this legislation specifically says the Rathdrum Prairie.

**Senator Little** asked if this will go to Resources. He asked **Senator Broadsword** if one of the key components was that every domestic well would have to file for a water right, and if that is the difference between the north adjudication. **Senator Broadsword** answered yes, you are correct, but the Department of Water Resources feels that the biggest amount of claims is the Rathdrum Prairie aquifer.

**Senator Jorgenson** stated that he and **Senator Broadsword** live in the same general area. What the real problem here is not about saving money or the adjudication, it is about the fear from Benewah County having to do with the SRBA (Snake River Basin Adjudication). **Senator Broadsword** answered that the people of Benewah County may fear the SRBA, but that is not the sole purpose of this legislation. This legislation was agreed to by legislators from district one as well as district two. There are concerns as far north as Bonners Ferry, and Shoshone County is also experiencing concerns over this adjudication and the need for it. There is still a huge amount of citizens who feel that there is no need to adjudicate in north Idaho. This will allow us to proceed without conflict by beginning on the Rathdrum Prairie, and showing that it can be done in a reasonable, responsible manner, and in a less expensive way to begin with. We could expand to other basins if needed.

**Senator Stegner** stated that the first suggestion that the adjudication should move north, came from the extensive interim committee work that was divided into regions. The north Idaho sub-committee recognized that statewide adjudication broke the process for the southern Idaho region. The court system was in place and it was only a matter of time before all

the water right issues needed to be settled in northern Idaho also. It will be more cost effective to do this today. The committee recommended to the legislature last year, and the point was that it was inevitability.

**Senator Stegner** added that he lives in north Idaho where some areas would be adjudicated, and this bill effects that. This bill says they won't be adjudicated. This is ultimately going to be inevitable in the state of Idaho. There is lots of water in northern Idaho, but just like southern Idaho, over time there will be more pressure about who owns what and who has legal rights. Additionally, there are water implications to other states as well as to another nation. It complicates things, but doesn't make it any less of a problem for northern Idaho. **Senator Stegner** stated that he cannot support printing this RS.

**Senator Broadsword** commented that she was not prepared today for a hearing, and that the full hearing would take place in the Resources Committee.

**Senator Little** stated one of the funding sources discussed last year was to double the per kilowatt rate. By narrowing the scope of this, is our cash flow jeopardized by the fact that the hydro power utility is outside of the scope, and they will get a windfall and this will go upside down as far as the funding. **Senator Broadsword** responded that she didn't have the answer to that. The funding is to come from fees charged to the users, including every private well. **Senator Little** stated it is seven dollars per kilowatt at capacity. He doesn't know how many hydro power facilities are on the Rathdrum Prairie, but from a cash flow standpoint this will significantly disrupt the cash flow of the northern Idaho adjudication. **Senator Broadsword** replied that she is not prepared to answer that, as she does not have the information available.

**Senator Geddes** commented that Friday is targeted as the last day to transmit bills to the House. This is perhaps in a schedule bind already, and this is late in the process for introducing a new bill.

**Senator Broadsword** stated that she had attempted to go to water resources to see what the options were. She did meet with **Mr. Strong** in the Attorney General's office, and he said that last year he recommended that this be the course the state of Idaho should take.

**MOTION:**

**Senator Jorgenson** moved to return **RS17118** to the sponsor. **Senator Stegner** seconded the motion. The motion carried by **voice vote**.

**ADJOURN:**

There was no other business before the committee. **Chairman McKenzie** adjourned the meeting at 9:56 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** March 2, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:03 a.m.

**S1174** **Senator Little** presented **S1174** to the committee. **Senator Little** stated that the Joint Finance Appropriations Committee incorporated the language in the public school funding bill. The necessity for this is due to the fast growing school districts who have accelerated costs. This will "front load" the money coming in. There is no cost to the general fund.

**Senator Geddes** asked **Senator Little** if this could be passed through the consent calendar. **Senator Little** answered yes it very well could.

**Senator Stegner** asked **Senator Little** if this will require us to borrow for anything else. **Senator Little** responded the way tax anticipation funds are issued it will, but when you net out at the end of day there is no negative fiscal impact.

**MOTION:** **Senator Stegner** moved to send **S1174** to the consent calendar. **Senator Malepeai** seconded the motion.

**Senator Davis** stated by the time this hits the consent calendar, it could get out of the Senate more quickly, if it didn't go to the consent calendar. **Senator Stegner** stated that the Majority Leader is in full control of what we hear at the Consent Calendar, he can move this through as fast as he wants, and my motion remains.

**SUBSTITUTE MOTION:** **Senator Davis** made a substitute motion to **send S1174** to the floor with a **do pass** recommendation. **Senator Jorgenson** seconded the motion and the motion carried by **voice vote**.

**S1173** **Senator Little** presented **S1173** and stated this bill relates to a parks issue. The Nature Conservancy has offered the state one million dollars to operate the park at Hagerman. When the state receives money, by law

it goes to the Treasurer's Office. The Treasurer's Office is not permanent long term management funds, like the endowment. The Constitution requires that the Endowment Fund manage funds for a longer term and to use different investment vehicles with a higher return. The Treasurer is limited in what vehicles they can use. The Nature Conservancy looked at the return, then looked at what the Endowment Fund return would be. They came to me and asked if there was another way to do this. Some language is cleaned up in the endowment area of the code and it gives the Endowment Fund, with the Land Board's blessing, the ability to manage the funds. The money would be invested for a higher return to pay the costs for operating the park.

**MOTION:**

**Senator Jorgenson** moved to send **S1173** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion and the motion carried by **voice vote**.

**S1172**

**Senator Richardson** addressed the committee and stated that his commitment to English as the official language is not about shutting people out, but bringing them together. This is what **S1172** is all about. Why do we need this and what will it do? The world has many nations and about ninety percent have official languages. Multi lingual individuals are an asset, but no government cannot or should not have to do business in every language spoken by its residents. There are three hundred and twenty different languages spoken in the homes of the United States. In Idaho, the census shows eighty-two different languages and in Ada County there are forty-six. A poll conducted in Idaho from February 7 through February 9, found that seventy-seven percent of the people support this, and only nineteen percent oppose it. **Senator Richardson** provided a handout of the information to the committee.

**Senator Richardson** continued and stated that twenty-eight states now have English as their official language. This was modeled after Arizona and Utah and it will draw the people together. In section 1, line 24 of the bill, it states that except for provided in this section, the English language is the sole language of the government. All transactions, proceedings, meetings or publications issued or conducted or regulated by, or on behalf of, or representing the state of Idaho, or any county, city or other political subdivision in this state shall be in the English language.

**Senator Richardson** stated there is nothing in this bill that will hurt any non-English speaking person. If the state doesn't care about what language we speak, than why should the people care. This is why the state needs to show the way and **S1172** is the answer to make English the official language.

**Senator Stennett** stated that on page 1, line 28, sub part 4 the language English may be used when required. He asked **Senator Richardson** who would determine when English may be used in a court room.

**Senator Richardson** answered that this legislation states a policy and when it passes it goes to the agencies for the rules and regulations. Then the rules and regulations come back and we either okay them or we change them. This would hold true here and if there is a question of that, then it would go to the rules and regulations of that agency, and you

would have an opportunity then to make the determination. **Senator Stennett** stated my question was can a judge make the determination if English only will be used in his court room. **Senator Richardson** stated I do not think this changes the judiciary process. It presently is the law in the state of Idaho.

**Mitch Toryanski**, from the Attorney General's Office, deferred to **Senator Stennett's** question and he stated that his understanding of the language, is that the public official who is conducting the business, would have the authority to make that decision. In the U.S. District Court of Puerto Rico a federal judge there actually did require that all pleadings and all proceedings in his courtroom be conducted in English only, and that was upheld. **Senator Stennett** asked if a school district declares itself to be English only, the statute states may be used, so a school district could say we are English only. Would this be permissible under the way this is written? **Mr. Toryanski** answered my reading of the bill is that the default is that business of the government will be conducted in English. There are certain exceptions, and a lot of them are for education. **Senator Stennett** stated he wants him to focus on the words may and require. **Mr. Toryanski** replied that the word shall could be a mandate. The word may normally gives the person who is obligated to follow the law, and it gives them an option. So my reading of this is that English is the sole business of the government, and will or shall be conducted in English. However, when it is impractical or necessary it may be conducted in a foreign language. **Senator Stennett** asked who would make the decision in all of these exceptions of whether or not it would be required. **Mr. Toryanski** responded the bill does not explicitly say who will make the determination. This is a general rule that everyone is obligated to follow, but there are broad exceptions. A public official who is transacting the business of the state, when they feel it is necessary to speak a language other than English, they have a First Amendment right to do so. Line 29 and 30 makes a broad exemption for the United States Constitution and Idaho Constitution, both of which have free speech provisions. Additionally, on lines 25 through 28, nothing in this section shall prevent government employees and other persons from exercising the First Amendment right, which is the right to speak a language other than English.

**Senator Stennett** asked if we have a broad First Amendment right exemption, why is this bill in front of us. **Senator Richardson** answered the majority of the people of Idaho want this, and we have to acknowledge that, then we take care of the minority. This is what this bill is doing, it is drawing them together.

**Senator Davis** stated there is another component to the answer to **Senator Stennett's** question regarding an English only courtroom. Under due process in order to be heard, I believe that is the difference between the free speech right of being able to express it versus an individual's right to be heard. Under those circumstances a translator is in fact going to be provided. The pleadings may be required to be in English, and the process of communicating with the judge may be required to be in English, but the individual would have the opportunity to be heard.

**TESTIMONY:**

**Sherri Wood**, President of the Idaho Education Association testified in opposition to **S1172**. **Ms. Wood** stated they are concerned as educators of the state that the language in this bill is somewhat confusing and vague. **Ms. Wood** said she taught for twenty-eight years in Caldwell and the majority of the population are Hispanic. Every piece of paper that goes home to parents is translated. If this bill somehow stands in the way of the Caldwell school district doing that, than this would be harmful to the families and the public education in Caldwell.

**Senator Davis** asked if **Ms. Woods** was authorized to be here today by the superintendent and express his opposition to this bill. **Ms. Woods** answered yes, but she is no longer employed by the Caldwell School District. **Senator Davis** stated that on page 2, on lines 24 through 28, it states public schools can establish communication with non-English speaking parents within their system using the means designed to maximize understanding when necessary, and to encourage parents who do not speak English to become more proficient in English. This tells me that if a school teacher wants to write a letter to a parent in another language, that they can do so. **Senator Davis** added that he is having a hard time overcoming the very concern **Ms. Woods** expressed. **Ms. Woods** answered that it goes back to the confusion that all documents will be in English, and the requirement of "may be required".

**Roger Guernsey** from Payette testified in support of **S1172**. He is a native of Idaho and lives in Payette. **Mr. Guernsey** stated that he has been a member of U.S. English since 1991, and last year the U.S. Senate passed a bill to make English the official language. Arizona became the twenty-eighth state to adopt English as their official language. English has been the indispensable glue that holds this country together.

**Karen McWilliams** who represents ICAN (Idaho Community Action Network) testified in opposition of the bill. **Ms. McWilliams** stated that English is already the language of the government. The majority of all government documents are printed in English only and in fact, only about two hundred or less than one percent of the U. S. Government documents are published in languages other than English. The vast majority of citizens speak English at home and the second language speakers also speak English. Supporters of the English only policy argue that immigrants do not want to learn English.

**Alicia Clements**, a member of ICAN addressed the committee. **Ms. Clements** stated this bill is harmful particularly in the area of health care. English is already the official language and it doesn't hurt anyone to speak another language. She reads and writes English as well as Spanish. In hospitals, some times patients are at risk due to miscommunication. English only could preclude Federally funded hospitals and health clinics, from effectively serving limited English patients. English only would weaken law enforcement and criminal justice proceedings as well. **Ms. Clements** stated that she speaks against this English only bill.

**Adam Ramirez** also a member of ICAN, testified in opposition of **S1172**.



**Mr. Ramirez** stated that he doesn't believe that English should be the only language that we speak. No harm is being done to anyone or the state of Idaho.

**Hannah Saona**, who represents the American Civil Liberty Union of Idaho, stated they oppose **S1172**. The sponsor stated that the goal of this bill is to unify Americans. This legislation is not necessary and the English language is not under attack in Idaho or anywhere else in the country. Most Americans speak English and immigrants recognize the need to learn it to thrive in the United States. If all state business must be conducted in English, it may have a chilling effect on government employees, who fear that providing services in a language other than English might be illegal. This legislation will keep legal residents of the state of Idaho from obtaining important information from the government, and prevent them from effectively communicating. This bill is unnecessary and inconsistent with the Constitutional protections of free speech, political freedom and equality. **Ms. Saona** urged the committee to not support **S1172**.

**Senator Davis** asked **Ms. Saona** if there is case law that supports her legal analysis of this bill, and if it passed, would individuals be denied their rights of due process in the courtroom. **Ms. Saona** answered that she does not see an exception in the bill for courtroom proceedings. **Senator Davis** stated that on line 29 and 30 of page 1, what about that. **Ms. Saona** replied she does see that it states this cannot go against the Constitution of the United States or Idaho, but the entire bill goes against the spirit of the Constitution.

**Senator Richardson** summed up and stated that most of the discussion we have heard here today talks about English only. This is not an English only bill, and I put that out at the very beginning. Their concerns have an exception to deal with each point. When we talk about teaching in another language, it has been addressed, along with health and safety issues. If you read the bill carefully it is in there and it will do the job, and make English the official language, not the only language.

**Senator Jorgenson** stated that he loves the diversity of languages. When I travel to another country it is my responsibility to try and learn the language especially for safety issues. It is also a matter of showing respect. Some countries are divided because they do not have a common language. Canada speaks English and French and they are divided and opposing succession. They are not a united country.

**MOTION:**

**Senator Jorgenson** moved to send **S1172** to the floor with a **do pass** recommendation. **Senator Geddes** seconded the motion.

**Senator Malepeai** stated that he will oppose this motion. There are unintended consequences of this bill. This is an English speaking country and that English should be the official language is misinterpreted as to what that means. Many countries speak English because they know that English is an international language. You cannot survive in this country unless you do speak English. It is a common denominator among all the

people of the world. The surveys that **Senator Richardson** brought forth cannot be disputed, but when you look at the population of Idaho I am not surprised by the results. This just isn't right.

**Senator Stegner** stated that he opposes the motion as well, it doesn't accomplish anything. It is a divisive piece of legislation in my opinion. It imposes the will of the overzealous majority on the unprotected minority in the state of Idaho. One of my jobs here, is to ensure that their concerns and rights are taken into consideration.

**Chairman McKenzie** asked for a roll call vote on the motion to send **S1172** to the floor with a **do pass** recommendation.

Senator Darrington - Aye

Senator Geddes - Aye

Senator Davis - Aye

Senator Stegner - Nay

**Senator Little** asked to explain his vote, and stated that when you look at the existing code 73-121, it already belongs in the state of Idaho. I have looked closely at this bill and I think this sends the message that English is the core. We do not want to discriminate, and I think this is a good addition to our existing code. I vote Aye.

Senator Little - Aye

Senator Jorgenson - Aye

Senator Stennett - Nay

Senator Malepeai - Nay

Senator McKenzie - Aye

The motion **carried**.

## **S 1169**

**Mike Brassey**, the sponsor of **S1169** addressed the committee and stated that the concept of this bill is very simple. Whenever an entity files with the Secretary of State as a corporation or a limited partnership, it must designate a registered agent. This legislation will bring all the registered agents' requirements into one place and a part of law. The other thing it does is distinguish between commercial registered agents and other agents. Commercial agents act on behalf of a number of companies. This makes it more uniform and fits with the existing Idaho statutes. **Mr. Brassey** added that it will make it more efficient for the filing of registered agents.

**Garth Jacobson**, who represents the CT Corporation addressed the committee. **Mr. Jacobson** stated that this is a standard practice in the business community. The CT Corporation represents entities to receive service of process on behalf of a business entity. It is the duty of a business to maintain a registered agent in order to enjoy their liability protections. All states require business entities to have agents for service of process. **S1169** better defines the requirement for registered agents. It is a good piece of legislation and benefits Idaho by making business entities law better, and it provides well defined predictable uniform neutral laws that relate to registered agents. **Mr. Jacobson** provided a copy of his written testimony for the official records.

**MOTION:**

**Senator Davis** moved to send **S1169** to the floor with a **do pass** recommendation. **Senator Jorgenson** seconded the motion.

**Senator Little** stated that he does not understand what a registered agent is and what the fees are for the entity to register. **Senator Davis** responded and stated that when his family wants to do business in the state of Montana, in order to do business there, they register with the Secretary of State in Montana. If they are sued, they need someone to accept service of process for them on their behalf. They hire CT Corporation or a similar entity to do this. That is the significance of a registered agent. **Senator Little** asked if this is in lieu of having to register in every state where you do business. **Senator Davis** answered no, we are still required to register as a foreign corporation, then CT Corporation becomes our agent for the purpose of accepting service of process. We still have to have a legal registered presence in the state.

**Mr. Brassey** stated that for most organizations they select an attorney to be their registered agent. That works well if you are doing business in the state of Idaho. When you do business out of state, you need someone to act in that capacity and that is what commercial agents are for. They serve that purpose on an interstate basis.

**Chairman McKenzie** stated the motion is before us, all in favor responded Aye. The motion carried by **voice vote**.

**ADJOURN:**

There was no other business before the committee. **Chairman McKenzie** adjourned the meeting at 9:28 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** March 5, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:02 a.m.

**RS17132** **Senator Keough** presented **RS17132** to the committee. **Senator Keough** stated that she and **Representative Jaquet** and **Senator Heinrich** have spent many hours working on this, to try and come to an agreement as to what sales price disclosure for fair property assessment purposes would be.

**Representative Jaquet** addressed the committee and stated she would draw the attention of the committee to line 34, where they are talking about single family residences. The real issue in our districts is that homeowners value has been on the rise, and they want to zero in on where the real issues are. This is a matter of fairness for the assessor to have the information and make a good value.

**Senator Little** stated that this is not the first time we have had this conversation. This is kind of a tax bill, he asked **Representative Jaquet** why didn't you go to the Revenue and Tax Committee. **Representative Jaquet** answered they had a conversation with the chairman of that committee, and he indicated that we should start this on the Senate side. The opposition we have had has come from the Realtors. They are now in favor of this. The realtors, contractors, their attorneys, counties, assessors, bankers, title companies, and the Tax Commission are all on board with this. We want to be able to put this out there and work more on this over the summer and return next session with this. **Senator Little** stated that one of the issues is that there is a ten percent margin on homes in your district. This will lessen the workload for the counties, but he believes this may not be a solution because of the vast values of homes in **Senator Keough's** district. How will you determine personal property versus real property particularly in a resale. **Senator Little** asked if those issues have been addressed. **Representative Jaquet** replied that they actually did talk about that, and the way the bill is

outlined now addresses those issues. Only seventeen percent of sales in her district were reported this past year to the Assessor, and in 1994 only forty percent was reported. Some people are paying a disproportionate share of their property taxes compared to those in other counties. Some counties are not a part of the multiple listings. They just want an even plane, so that is why they zeroed in on a family residence. It needs to be looked at over the summer and worked on.

**Senator Davis** stated there is a saying, I like you, but I don't like your bill is racing through my mind. I don't know if you will ever get me to support this, because you are trying to provide a solution to a problem in a few areas, and requiring the rest of the state to go along with it.

**MOTION:**

**Senator Davis** moved to print **RS17132** and **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL  
APPOINTMENTS:**

**Mike Bosen** who was appointed to the Idaho State Racing Commission addressed the committee. **Mr. Bosen** stated the commission was created to enhance, promote, and protect the live horse racing industry in the state of Idaho. This mission is accomplished through licensing regulations and supervision of all live and simulcast meets in the state, under the terms of the Horse Racing Act. He has familiarized himself with the rules and statutes that govern horse racing and he will read, study, understand, follow and enforce them. **Mr. Bosen** added that he is a good judgment of character and he does his best to be kind and fair to all. He believes that horses are good honest creatures. Horse owners, breeders, trainers and others involved in the industry are sometimes not as honest. People should be more like horses, as honesty really is the best policy. He believes that an individual, a company, and a commission can never have too many friends. There have been and will continue to be good days and bad, ups and downs, nice people and angry ones, clean races and races riddled with great difficulty. A clean well run professional horse race captures the hearts of participants and fans. It is fun and it is exciting. This is the sport of kings conducted and enjoyed by common, ordinary, wonderful, hard working Idaho people who are on a less than royal budget.

**Senator Darrington** stated that we know the small tracks in the fair circuit have been struggling. He asked **Mr. Bosen** what is the commission doing to have successful meets at their fairs. **Mr. Bosen** answered that he doesn't know. He loves the fair meets and participates. Whatever the majority decides is what will be done, and personally he hopes that the fair meets will continue.

**Senator Davis** asked **Mr. Bosen** to address the issue of conflict of interest. **Mr. Bosen** responded that he understands the concern. Personally he does not believe there is a conflict, he loves and supports all aspects of the horse industry and not just racing. He stated that he is a breeder and an unsaid part of his philosophy is, that he will not compete in events, especially ones they sponsor. It doesn't look good to compete against those he is contributing to. He added that he is not a trainer, or an owner, but a breeder. He supplies horses to those who are going to

compete. **Senator Davis** stated that principally you have addressed the concern. But as a breeder, you would have to acknowledge the success of your breed would impact the value of the services of the company that you work for provides. You are now in position as a result of being on this commission, in which some may argue that a conflict could occur. As long as you make that representation and assurance to us, that you are aware of the potential for it, and that you will guard against it, that is all I can ask for. **Mr. Bosen** responded that he will be very careful to guard against it. That has been some of the problems in the past.

**Chairman McKenzie** thanked **Mr. Bosen** for his time and advised him that the committee will vote on his appointment at the next meeting.

**Chairman McKenzie** stated that the confirmation vote of **Brad Foltman** is before the committee.

**MOTION:**

**Senator Davis** stated we are sending this back to the floor with the correct title versus the other. He moved to send this to the floor with the correction. **Senator Little** seconded the motion. The motion carried by **voice vote**.

**H 51**

**Colonel David E. Spurling** addressed the committee regarding **H51**. **Colonel Spurling** stated that this amends existing sections in Idaho Code, 32-717 and 33-719. It will extend legal protection previously given to deploying members of the state National Guard, to other members of the military reserves, when they deploy. Currently this only applies to members of the National Guard. As a matter of fundamental fairness, we believe that those protections should also apply to the members of the Air Force Reserve, Navy Reserve and Army, who have also been called up to serve in harms way. **Colonel Spurling** asked the committee for their favorable consideration of **H51**.

**Senator Davis** asked **Colonel Spurling** asked what does a family do when the custodial parent is ordered into service. Will the court enter temporary orders when they are deployed. **Colonel Spurling** answered that the primary protection of the bill is when a soldier returns from the deployment. The court cannot use his or her membership in the guard as the sole basis for a change in custody. The child custody arrangement while the soldier is gone, is basically determined by the existing court order that is in effect. This bill protects our service members from a change in custody simply based on the fact they served our country.

**Senator Davis** asked what if the service member has been away for an extended period of time, and as a result of that a different attachment has occurred. How will the court make a determination that will not be reversed on an appeal. **Colonel Spurling** replied that these are difficult questions. The court is expected to utilize the existing standards of the code including the best interest of the child. **Senator Davis** stated I agree with you, but what is your intent. **Colonel Spurling** responded that the intent is to protect our service members in regards to their service to our country. A court cannot presume that the non-military member is the better parent for custody, and not for an automatic prejudicial presumption. **Senator Davis** asked can their military service be used as

a factor for emotional attachment. Or are you saying that even though this adversely affects emotional attachments, that you cannot consider that new emotional attachments have occurred, because of the military service. **Colonel Spurling** stated the purpose of the bill is to prevent prejudicial findings, solely based on someone's military service. The best interest of the child standard is still a matter of law and the judge's primary concern. The court is prohibited from entering a finding solely based on the parent's status, and the possibility that they might be called away again. This is the existing law, that we are asking to apply to reservists. The typical things they see are that emotional attachments have changed during a long deployment. That argument is made and considered by the courts.

**Senator Darrington** asked **Colonel Spurling** what issues outside of the custody issue are we talking about. **Colonel Spurling** answered if a member is attending college and they are called up and may have to leave mid term, we advise them that they can return or they are given a refund.

**Senator Little** asked the Colonel to explain 46-409 in the current code, and who are we picking up with this amendment. **Colonel Spurling** answered the child custody and student protection amendment will apply to members of the Air Force, Navy, Army, and Coast Guard Reserve. The fundamental issue arises from the fact that we have two reserve forces in the United States. We have the state militia, and title 32 federal forces. Then each service also has a reserve component which does not serve the state. So it is the title 10 reservists that this bill will give the protection to. **Senator Little** asked if the Colonel had examples where the current guard members are judicially being awarded some protection, that the other four divisions of the reserve are not. **Colonel Spurling** responded that he works with the National Guard. But part of his responsibility now is to look at legislation, and he doesn't know of an individual who has been disadvantaged. As a matter of law, this only applies to guardsmen now. The basic principle that the Legislature has seen fit to adopt in law, as a matter of fundamental fairness, should be available to others who serve our country. **Senator Little** asked what about a divorce proceeding where there is a custody issue, does this apply only to the military reservist, and not to the other parent. **Colonel Spurling** replied that the existing code states, that the judge cannot change an existing custody merely because of military service. This bill has no effect on temporary arrangements when a custodial parent moves away and cannot exercise visitation. **Senator Little** asked what about the regular army, will this cover them. **Colonel Spurling** answered when a court makes its determination, both parents usually have those arrangements in place.

**MOTION:**

**Senator Davis** made the motion to send **H51** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion.

**Senator Davis** stated my understanding of the bill is that it applies where there is a substantial, material, or permanent change in circumstances, in which you are modifying a previously entered decree of divorce. Sub part 6 is the application to this, and that is why I made the motion.

The motion carried by **voice vote**.

**H 52**

**Colonel Spurling** presented **H52**, which amends Idaho Code to clarify brevet promotion. Brevet promotions have a long history in the military, and this just needs some housekeeping to bring it up to date. There are two statutes and this bill proposes to consolidate them, and clarify what grades are subject to promotion. Promotions upon retirement will be based on a twenty year retirement.

**Senator Davis** asked **Colonel Spurling** for clarification about the bill. **Colonel Spurling** responded that at the conclusion of a person's military career, the adjutant general of the state of Idaho may choose at that time to issue an order of brevet promotion. A brevet promotion is honorary, it does entitle the person to wear the rank, but it does not change anything in terms of pay or benefits. **Senator Davis** asked what if an individual is reactivated. **Colonel Spurling** replied in those cases, they serve at their rank of retirement. This is an honorary promotion and brevet tradition does allow wearing the brevet rank. **Senator Davis** stated if they come back with a brevet promotion, can the additional time served have an impact on their benefits. **Colonel Spurling** answered no, because retirement benefits come from the federal system. The federal rank is based on that recognition. The Idaho guard is part of the armed forces of the United States, and we serve in the same standard as the active forces. There is a two board process, state and federal. The brevet promotion is only under state authority. If they are recalled it has no effect whatsoever on federal service, no recognition, or change for pay or benefits. If they are promoted on merits, than they would be entitled to the pay and privileges of that rank.

**Senator Little** asked **Colonel Spurling** if the guard are recipients of PERSI benefits. **Colonel Spurling** no, only those employees in the military division who are civilian employees or state technicians. Their state employment is not federal and the retirement benefits are based on state salary. They are paid on the federal pay scale when they perform federal service. **Senator Little** stated the language that has been struck is by order of the Governor before, and now they are on upon request. Why wouldn't every retirement member get an increase in rank. **Colonel Spurling** replied the request is for the retirement, but the brevet promotion lies within the authority of the adjutant general. **Senator Little** asked if this puts a burden on the adjutant general to give everyone an honorary rank. **Colonel Spurling** answered we believe that this will relieve the burden and this will make it more clear.

**MOTION:**

**Senator Stegner** moved to send **H52** to the floor with a **do pass** recommendation. **Senator Davis** seconded the motion and the motion carried by **voice vote**.

**H 180**

**Representative Clark** addressed the committee regarding **H180** and stated that this will divert two million dollars from the state's general fund into the Drug Court system. **Representative Clark** provided a chart with the exact distribution. The changes add an increase of \$680,000 to the Drug Court and Family Court Services Fund. A new fund is created and \$440,000 is distributed to the Drug and Mental Health Court Supervision



Fund. There is an increase to the Substance Abuse Treatment Fund, previously called the alcohol Treatment Fund, which is increased by \$880,000. When you add this up it totals two million dollars, which will come out of the general fund as opposed to the counties and the cities.

**Senator Jorgenson** asked **Representative Clark** where will the funds be diverted from. **Representative Clark** answered they will come from the general fund based on the current distribution and the proposed one.

**Senator Little** asked **Representative Clark** if this will be appropriated. **Representative Clark** replied this is permanent and continually appropriated. It will not go through the budget process.

**Senator Stegner** asked if **Representative Clark** considered using a percentage amount rather than a fixed. **Representative Clark** replied no he did not. A fixed amount is better than a percentage. **Senator Stegner** asked what was the logic in using a fixed amount. **Representative Clark** answered that he was trying to arrive at an additional five hundred five seats. They were able to come up with two hundred seventy five as opposed to the five hundred five. The percentage base would be more difficult to estimate within the two million dollars. **Senator Stegner** stated he would think there would be some logic to a percentage amount going into the Substance Abuse Treatment Fund, as it needs to grow with the demand.

**MOTION:**

**Senator Jorgenson** moved to send **H180** to the floor with a **do pass** recommendation. **Senator Darrington** seconded the motion.

**Senator Davis** stated that he will not resist the motion that was made, but there might be some wisdom in tying this to percentages. I doubt this fund will get smaller, and the costs associated with the treatment are likely to increase. Providing it by a percentage, increases the likelihood that a more fluid coverage will be available. Eventually we will be amending this bill to do that very thing.

**Senator Darrington** stated down the road we may decide to put more money there and go the percentage route. There is some certainty associated with this and we should move ahead and do this now.

**Senator Little** commented that he likes this and it is the right thing to do. He is however reticent to put things on auto pilot, rather than make the legislature scrutinize and look at it.

There was no further discussion on the motion, and it carried by **voice vote**.

**S 1165**

**Chairman McKenzie** turned the meeting over to the **Vice Chairman Jorgenson**. These bills relate to changes in printing the ballots and the costs associated with it.

**Dave Navarro**, clerk of Ada County addressed the committee. **Mr. Navarro** stated that these will help cut costs during elections. The most

important thing is that it will help assure the military and civilians overseas will receive their ballots in time.

**Phil McGrane**, Deputy County Clerk for Ada County stated that the purpose of this bill is to amend existing law, in order to change the declaration date for a write-in candidate. This issue was brought forth mainly due to changes in election law on the federal level, and in which we are now facing new technologies. Most of Idaho uses the punch card ballot. Currently fifteen counties are using the optical scan ballot, but also Ada and Canyon County are looking to make a change to this ballot as well. They have write-in spaces for each race and it is largely due to the fact that they are printed in advance of mailing time to absentee voter requests. There are fourteen days allowed currently for declaration of write-in candidates. This makes it prohibitive for us to make any changes. By moving the date to the eighth Friday preceding the election, will allow us to know if there are any write-in candidates.

**Senator Davis** stated just because someone writes in a candidate doesn't mean they didn't want to pick between the candidates. They could have chosen to under vote. **Deputy McGrane** responded that is correct.

**Deputy McGrane** continued and stated that the current deadline for a write-in date is the tenth Friday, and this will allow a two week window for candidates to file as a write-in. In the Madison County primary, no one filed for the Office of Coroner, five people filed as write-ins, and this would allow them to file as a write-in. This is an issue in terms of cost for printing, and space on the optical scan ballots is valuable. The cost has risen considerably because of this technology. The cost of a punch card ballot is eight cents and these are thirty-two cents per page. This is an issue for all counties across the state, not just Ada and Canyon county.

**Senator Davis** stated the issue of consolidated elections is not on this bill. Are you suggesting that this could substantially increase the cost of elections by using this form of balloting. **Deputy McGrane** replied that most likely in those consolidated elections this type of ballot will be used.

**Senator Stegner** stated that **S1165** increases the time for a write-in candidate to be increased from fourteen days before the election, to well over fifty days. He asked **Deputy McGrane** if that is correct. **Deputy McGrane** answered yes that is correct. The federal date for mailing ballots to military is forty-five days preceding the election. **Senator Stegner** asked if that is why they are asking to change it to the eighth Friday preceding an election. **Deputy McGrane** replied yes, to allow for printing time in advance of mailing, to notify them who is qualified.

**Senator Stegner** stated it is not about needing fifty days to print, it is to accommodate the federal requirement of mailing absentee ballots and military personnel. Isn't that correct. **Deputy McGrane** answered yes.

**Senator Stegner** stated he understands the concerns of the clerks, but it appears that we are allowing the federal standard to dictate this. Aren't we restricting the flexibility of a small county. **Deputy McGrane** replied that most people are aware of the time frame. This will allow a two week

window for those who are dedicated and an important part of our legislature.

**Senator Stennett** asked if pencils will be removed and eliminate the opportunity for write-ins. **Deputy McGrane** answered they will still have a writing implement, the line will be removed for those races that do not have a declared write-in.

**MOTION:**

**Senator Darrington** moved to send **S1165** to the floor with a **do pass** recommendation. **Senator McKenzie** seconded the motion.

**Senator Davis** stated that the way the bill is presented we are providing for the military to know who the candidates are. But there is another way to analyze this. We are measuring the printing cost of the county against the right of individuals to participate. The county is saying 1) it will minimize the less than likely write-ins, and 2) by eliminating space we can tighten up our ballot and save some costs. Additionally, we are specifically excluding individuals from participating in the write-in candidate process. Although we want to minimize the success of that, we have examples in this legislature who won based on the write-in process. This is a cost bill as much as anything. The cost alone should not be a factor in eliminating the right to participate. The military have access via the internet, and they can be aware of those individuals who are qualified write-in candidates. **Senator Davis** stated that he does not support the motion.

**Senator Stennett** stated that his concern is the smaller counties, jurisdictions, and highway districts. This is a cost saving opportunity for the larger counties and I oppose the motion.

**Senator Little** commented that if you have an uncontested candidate in a small county, and all they have to do is make it fifty-two days before the election. He asked **Senator McKenzie** if he sees that as a problem if you close the window from fourteen to fifty-two days, in the smaller counties.

**Senator McKenzie** answered no, the concern is that in rare cases you don't have a candidate, so you have to have a write-in. The window is adjusted to have some time for a candidate to declare in order to do that. Small counties will have the cost issue as well for write-ins.

**Vice Chairman Jorgenson** requested a roll call vote on **S1165**.

Senator Darrington - Aye  
Senator Geddes - Absent  
Senator Davis - Nay  
Senator Stegner - Nay  
Senator Little - Aye  
Senator Jorgenson - Nay  
Senator Stennett - Nay  
Senator Malepeai - Nay  
Senator McKenzie - Aye  
The motion **failed**.

**S1166**

**Dave Navarro** presented **S1166** to the committee. **Mr. Navarro** stated

this amends 34-625, and it only affects Ada County, since the current statute requires a population of two hundred thousand or more. The purpose of this bill is to require candidates for the position of Highway District Commissioner, to file a declaration of candidacy at least ninety days prior to the general election, and to make sure that ballots are printed within the time frame, much like in **S1165**. There is no cost savings involved it is strictly getting the time line to meet the federal guidelines.

**Senator McKenzie** stated that this bill addresses the concern of **Senator Stennett** regarding smaller counties. This only applies to the Ada County Highway District.

**MOTION:**

**Senator McKenzie** moved to send **S1166** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion.

**Senator Davis** stated that sixty days is not enough time to declare a candidacy if it involves the Highway District. He asked if fifty days was good for the other bill why isn't it for this bill. **Mr. Navarro** answered that he would prefer ninety days for both bills. The time frame is not in the printing, but the layout of the ballot and adding the candidates because of the rotations. Typically we have five and six candidates who file for those seats. It involves all the preliminary work before it goes to the printer. **Senator Davis** asked if it takes more time for all the independent candidates. **Mr. Navarro** replied yes, it is the rotation. **Senator Davis** asked if this only applies to one county, and we only have one or two names, why do we need all the extra time. **Mr. Navarro** answered that there are three seats with five seats in that commission. There are five to six candidates per seat, and this means eighteen to twenty candidates that are rotated. All of the county officers are rotated on that page as well. In addition to that, it takes in our own commissioners, it is a huge rotation.

**Senator Stegner** commented I realize this only impacts one county, but we are making state law. If we back this up to August, people are not following the political activity. This seems to be more restrictive than we need to be.

**Senator Little** stated in response to **Senator Stegner's** concern, the main ballot is determined in May, we are just asking for additional time for the Highway District Commissioner.

**Senator Davis** stated sometimes we tend to do chalkboard voting, I just want to understand if there is a public policy reason for this. If the date is set for ninety days, will this allow for write-ins. **Mr. Navarro** answered yes they have the same opportunity for write-ins.

**Senator Little** asked isn't it true in most counties that the county commissioner is decided in May, and that Ada County would have until August. **Mr. Navarro** replied yes, that is correct.

**Senator Davis** stated than are you effectively asking for ninety days prior to the election, but write-ins for those offices would be eligible as well.

**Mr. Navarro** answered yes, you are right.

**Vice Chairman Jorgenson** asked for a roll call vote on **S1166**.

Senator Darrington - Aye  
Senator Geddes - Absent  
Senator Davis - Aye  
Senator Stegner - Nay  
Senator Little - Aye  
Senator Jorgenson - Aye  
Senator Stennett - Aye  
Senator Malepeai - Aye  
Senator McKenzie - Aye

The motion carried to send **S1166** to the floor with a **do pass**.

- MINUTES:** The minutes of February 19, 21, and 23 were before the committee for approval.
- MOTION:** **Senator Malepeai** moved to approve the minutes of February 19. **Senator Jorgenson** seconded the motion and it carried by **voice vote**.
- MOTION:** **Senator Jorgenson** made the motion to approve the minutes of February 21, and stated that they were accurate as written. **Senator Little** seconded the motion. The motion carried by **voice vote**.
- MOTION:** **Senator Little** stated that he had reviewed the minutes of February 23, and requested two words to be inserted. He moved to approve them with the change. **Senator Malepeai** seconded the motion and the motion carried by **voice vote**.
- ADJOURN:** There was no other business before the committee and **Chairman McKenzie** adjourned the meeting at 9:44 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** March 7, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:04 a.m. **Chairman McKenzie** turned the meeting over to the **Vice Chairman, Senator Jorgenson**.

**HCR13** **Senator McKenzie** presented **HCR13** and stated that this Concurrent Resolution adopts the energy plan that the interim committee worked on over the summer and fall. It is a culmination of many meetings that was an investigation and debate over energy policies in the state. Some important issues they looked at were energy needs now, and in the future. Conservation on renewable energy and the demand for reliable and cost effective energy were investigated. They made recommendations to help achieve the objectives to ensure reliable, low cost energy supply, while protecting the environment and promoting economic growth. This is the first time they have looked at an energy policy since 1982, and this plan is the first time the legislature has taken the lead on it.

**Senator McKenzie** continued and stated that the committee was formed based on **HCR62**. The interim committee was asked to develop an integrated state energy plan and to look at how the state meets their power generated needs, while protecting the health and safety of the citizens. The committee met twelve times as a whole and four sub committees met seven times, in addition to that nineteen public meetings were held. Non-legislative members were allowed in the discussion and they appointed twenty-seven citizens, that formally served on the sub committees. There are five objectives of the plan and within that there are eighteen policy recommendations, and forty-four recommended action items. Each one was a consensus recommendation.

The five objectives of the plan are 1) To ensure secure reliable stable energy systems, 2) maintain a low cost energy supply, 3) protect public health and safety and natural resources, 4) promote economic growth, and 5) provide the means for a flexible plan as they go forward. Idaho

has the second lowest energy cost of any state in the nation, which is largely due to hydro development.

The key findings are first, that our energy systems have worked very well in the past. The concerns are related to energy future. Some of the problems that they see is that about eighty percent of the total energy is imported into the state. A large part of that is petroleum, but forty-eight percent of the electric supply is hydro. Forty-three percent of the remainder is imported into the state. The committee looked at ways to reduce our reliance on factors that they cannot control with regard to our energy future. Renewable resources were looked at, but they are only a net positive if they are cost effective to the state.

Currently, Idaho's residential electric rates compared to other states are the lowest because of hydro power. This has kept the rates low. Our energy burden is higher relative to the other states, which takes into account our petroleum use. A large part of that is due to the fact that we drive a lot. We use some natural gas, coal, nuclear, and some non-hydro renewables which will grow over time. One hundred percent of natural gas and petroleum is imported into the state.

**Representative Eskridge**, the co-chair of the committee continued with the presentation of **HCR13**. **Representative Eskridge** stated that the energy plan that the committee developed merely sets out a set of policy recommendations. This is not something that requires anything be done, it is an evaluation and recommendation for our energy needs in the future. Idaho utilities should acquire a reliable, diverse, cost effective and environmentally sound resource portfolio. The committee recommended that the utilities 1) give priority to conservation energy efficiency and demand response programs, and 2) renewable resources, those that have the ability to renew themselves, such as geothermal, wind, and solar.

Idaho utilities should have the ability with incentives to construct needed transmission facilities. There is a transmission bottleneck throughout the Northwest. This prevents us from getting the resources to the load center and it is especially a problem with wind generation. This is primarily in the rural areas of the state, and there isn't a transmission system to get the wind resources to the load. Idaho must also prepare for federal regulations of green house gas emissions because of carbon emissions, and associated environmental problems. These are policy directions, and in terms of action items, Idaho utilities should 1) incorporate conservation; 2) the Idaho Public Utility Commission (PUC) should establish appropriate shareholder incentives for investor owned utilities; 3) offer tax incentives to business and households for investments in energy technology; and 4) Idaho should adopt international building codes on a three year cycle, and provide assistance to local government.

**Senator Davis** stated that he did not understand that last point. What is the three year cycle. **Representative Eskridge** responded that normally the international building code is updated on a three year cycle. The committee recommends they follow and adopt that cycle. **Senator Davis** asked if we have been doing that already. **Representative Eskridge** stated yes, that is correct. He is just reiterating it.

**Representative Eskridge** continued and added that 5) Idaho should offer tax incentives for customer owned renewable generation; 6) provide a back stop to enable the IERA (Idaho Energy Resource Authority) to provide low cost financing for customer owned renewable generation; 7) report annually to retail customers their sources of electricity; 8) the PUC, DEQ, (Department of Environmental Quality) and DWR (Department of Water Resources) should investigate and report on the status of "clean coal" technology; 9) the INL (Idaho National Laboratory) is working on nuclear energy being used as a base load resource for electric generation; 10) Idaho should participate in regional efforts aimed at increasing the capability of a Western transmission grid; 11) Idaho's policy is to employ the highest and best use of natural gas, and ensure that customers have access to abundant and reliable supply; and 12) support responsible exploration and production of natural gas supplies, and the expansion of a transmission storage and distribution infrastructure.

In terms of petroleum, Idaho policy should promote the production and use alternative fuel including ethanol, bio-diesel and other examples of alternatives. It is the policy of Idaho to promote conservation and efficiency as a means of reducing transportation fuel expenditure and air emissions. Idaho should support responsible exploration and production of petroleum supplies and the expansion of transmission storage and distribution infrastructures.

**Senator Davis** stated that we speak frequently about Idaho serving as a conduit for transmission of electricity for other states, and that Idaho can play a significant role in that. He asked **Representative Eskridge** why would we commit the state as a conduit for another state.

**Representative Eskridge** answered that we may be a conduit, but we are also a beginning and an end. Most of our energy is imported, so the facilities that go through our state also drop off. **Senator Davis** commented this helps me to better understand this. In the policy does it indicate that if Idaho becomes the conduit for transmission, that one of the costs associated with serving as the transmission, is a requirement for the drop off of energy for the consumers in the state. **Representative Eskridge** replied that it is probably assumed as we develop transmission infrastructure. The reason we are supporting that transmission is because of the benefits that it will provide Idaho. **Senator Davis** commented that **Senator McKenzie** showed us the costs associated with energy in other states and they are substantially higher than Idaho. If California buys energy for substantially more than Idaho pays for it, the market will drive transmission through our state. We will become nothing more than a conduit unless we pay what California pays for energy. He asked **Representative Eskridge** to explain that. **Representative Eskridge** responded in part that is one of the issues that the committee tried to address. One of the reasons why our electricity is so much less, is because of the hydro facility. Not just in Idaho, but across all of the Pacific Northwest. As we look to the future in terms of energy resources, we are going to be subject to the market, and that will dictate what price we will pay. Our energy future is a complex issue and the whole purpose of this plan, is to get us into the mode where we can start making concrete policy decisions.



**Senator Stennett** stated the debate we had last year over the merchant coal fired generation plant, was the fact that Idaho would have no claim on the power that would have been created there. He asked what is the policy of the state in this policy in regards to using up our natural resources, to make sure that the power remains in Idaho. **Representative Eskridge** replied I do not have the answer to that, that is why we have not precluded any resources. Merchant plants may be a viable option for Idaho, the committee's only concern is that we do not preclude any resource that could give us some advantage in terms of price.

**Representative Eskridge** continued with his presentation and stated we believe that incentives should be provided for the purchase of efficient flex fuel, an alternative fuel vehicle. Ethanol or bio-fuel production will play a large part in that across the United States as well as Idaho. There may be some proposed legislation with regard to ethanol manufacturing incentive. Ethanol can be produced with corn and the committee would like to see an emphasis in that area. Idaho state agencies should provide and play a role in providing technical information to support local energy facilities siting decisions. The PUC should have the authority to site transmission facilities within the areas that have been designated along the transmission corridors. There is legislation going through the process to give the PUC that authority. The energy division and the PUC should report to the legislature every two years on the progress of implementing the recommendations in this energy plan. Having said that, their hope is that this plan will not sit on the shelf for twenty years without ever being referred to. The committee hopes this policy will be a guide for the legislature and other state agencies to continually update as we look to our energy future.

**Senator Little** stated that he applauds all his work. If we wrote an energy plan in 1982 and didn't do anything with it, and we have the lowest energy cost in the United States, why should we have an energy plan now.

**Representative Eskridge** responded to some degree we have been very fortunate with a large hydro resource, and that is the reason our rates have been lower than anyone else. In addition to that, we have the Bonneville Power Administration which is the public government bond, that coordinated all of the hydro resources and made them available to all the utilities in the Pacific Northwest. The problem is that we are running out of those resources and Idaho must look at other resources.

**Senator McKenzie** commented that our energy systems have worked well in the past. We are not recommending any extravagant changes, or mandating solar panels. The plan is for the future and energy resources that are available.

**Senator Stennett** stated that deregulation is an issue and we did the right thing staying out of it. Private parties are creating merchant power plants, it is a new beast, that wasn't around in 1982. Additionally, he is curious why this plan didn't include this. Private industry develops these power plants and sells it on the grid to the highest bidder. The public resources aren't necessarily getting the return back to Idaho citizens. We gave up free flowing rivers in order to have cheap power. The issue today is that they do not have to go to the PUC and get a certificate of need. This is a

major hole in the plan and we have failed to recognize it. **Senator McKenzie** stated that when you look at independent generators of electricity, there are two sides to that coin. The wind producers that are out there, are a benefit to the state. We are developing a lot of large wind projects in the state. So when you look at the merchant plants, they are not always a bad thing. How they produce the energy needs to be looked at, and as a state policy we have recommendations with regard to that specific issue. The producers put energy into the grid, we are part of the grid and not necessarily isolated here as a state in the Northwest. There are corridors of national interest that are designated by the federal government, and we need to develop the grid within the state.

**MOTION:** **Senator Davis** moved to send **HCR13** to the floor with a **do pass** recommendation. **Senator Darrington** seconded the motion.

**Senator Stennett** asked to debate the motion. The committee did an enormous amount of work and to a large degree came to solutions and recommendations. There is a gaping hole, a new creature called a merchant plant that was not addressed, and an oversight. It is about the resources in Idaho being used by Idahoans.

The motion carried by **voice vote**. **Senator Stennett** and **Senator Malepeai** requested that it be recorded they voted against the motion.

**HCR25** **Representative Eskridge** stated this is good legislation, I ask that you pass it. This just follows the energy policy and allows the legislative council to continue an interim committee, to study the subject of energy related issues, including environmental and economic considerations involved in meeting Idaho's energy needs. The committee would be authorized to meet until November 30, 2008.

**Senator Davis** stated that he isn't sure if **Senator Stennett's** concern on the last resolution aren't really covered by this one. There isn't any language in here that would preclude the committee to continue to wrestle with the state's siting issue.

**MOTION:** **Senator Davis** made the motion to send **HCR25** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion.

**Senator Stegner** commented that this energy committee has been meeting now for ten years. It is on a two year cycle and requires authorization every two years. We have done this consistently for some time because we have felt that the energy issue is an important one, that needs continuing education and review.

There was no opposition to the motion and it carried by **voice vote**.

**S1181** **Senator Jorgenson** presented **S1181** to the committee and stated that this bill will extend healthcare insurance for public safety officers as defined by PERSI. The initial reaction to this type of bill is that it will apply to everyone and this is not the case. When an officer is permanently disabled in the line of duty, that he and his family would be covered by the state insurance plan, for the purpose of maintaining their insurance plan.

This will be funded by PERSI, with two thirds being contributed by the employer, and one third is to be paid by the employee. If you take a salary of \$45,000, the employer would pay \$3.50 per month, and the employee would pay less than \$2.00 a month. The upside benefit to this is that it would drastically reduce turnover. **Senator Jorgenson** added that this is the only financially viable way to provide healthcare coverage to a permanently disabled officer. The emergency clause that **Senator Stegner** raised has been addressed. It states for the purpose of eligibility or supplemental disability benefits and group insurance, this shall not apply to any insurance claim filed on or after the effective date of this act. There will be no insurance ramifications to this.

**Senator Little** stated as he reads the emergency clause it states that anyone who qualifies for this after December 1, 2004, will be covered. Is that correct? **Senator Jorgenson** answered yes and it applies only to one person currently. **Senator Little** asked how do we know that. **Senator Jorgenson** answered that **Alan Winkle** by way of PERSI provided that information to him. **Senator Little** asked if there wasn't a program, why would anyone file for this. **Senator Jorgenson** asked to defer to **Alan Winkle**, the Director of PERSI. **Mr. Winkle** stated that they made these judgments in the bill, whether someone is a police officer, if they are injured in the line of duty, and if they are in the system as permanently disabled. We know who has been injured and it was reported to PERSI. **Senator Little** asked Mr. Winkle if Wildland Firefighters are classified as public safety officers. **Mr. Winkle** responded yes, they are included in Correctional, Fish and Game, Conservation, Probation and Parole, State Police, County Sheriff and Jailers. **Senator Little** commented if eighty percent are state employees and twenty percent are local employees, I would assume with all the sheriff and county and fire fighters in that the mix, that eighty percent would be state. **Mr. Winkle** replied, out of all our total membership, about twenty percent are city and county. The rest are in schools and state. We have six thousand police officer members under PERSI, and I really don't know what the proportion is to city and county. **Senator Little** commented that we only have a few hundred state police and correctional officers, everyone else is city and county. I would submit that the mix is much higher in local government than state. **Mr. Winkle** responded that he does not have the count and cannot confirm that.

**Senator Darrington** stated that **Senator Jorgenson** mentioned that he wanted this to go to the fourteenth amending order. He asked what are the amendments. **Senator Jorgenson** answered there is some technical language that was recommended by the Attorney General's office. It deals with whether or not the funds would be considered tax free and some additional clean up.

**TESTIMONY:**

**Brett Walton**, a detective with the City of Coeur d'Alene testified in support of **S1181**. **Detective Walton** stated that in the shift rotation **Michael Kralicek** actually took his spot. After that happened he did some soul searching, because it could have been him that was shot. He is not married currently. This bill will give peace of mind to those families and help offset the cost of their health care. **Detective Walton** asked the

committee to support this legislation.

**Mike Walker** testified in support of **S1181**. **Firefighter Walker** stated that he represents the Professional Firefighters of Idaho and speaks in favor of this bill. The public safety workers who in the course of their work put themselves in harms way, and pay the price of losing their ability to provide for their families. Those individuals should be treated differently. When a construction worker falls off a ladder, it is tragic, but it is an accident. When **Officer Kralicek** was shot in the face, it wasn't. He intentionally put himself in harms way to help others. His job required that of him. This bill helps the public safety workers who are injured and permanently disabled, when they risk their lives to help others.

**Senator Little** asked **Firefighter Walker** if any of the cities or municipalities offer this benefit now. **Firefighter Walker** responded I do not believe so.

**James Woydziak**, the Fire Chief for the City of Nampa addressed the committee. **Fire Chief Woydziak** stated that he represents the Idaho Fire Chief's Association and all members are in support of this bill.

**Senator Jorgenson** summed up and stated that when there is a tragedy, everyone's heart pours out to them. Eventually they adapt, but the real reality is that they will be terminated by their employer. When that happens they will have retirement income, but they will lose their health care benefits. The typical cost of those benefits can be well over one thousand dollars a month. This bill will provide an additional safety net in a manner that is reasonable and the parties are willing to pay their fair share.

**MOTION:** **Senator Darrington** moved to send **S1181** to the fourteenth amending order. **Senator Malepeai** seconded the motion and the motion carried by **voice vote**.

**RS17153** **Chairman McKenzie** turned the meeting over to the **Vice Chairman, Senator Jorgenson**. **Senator Corder** presented **RS17153** to the committee, and stated that this Concurrent Resolution calls for the appointment of an interim committee. Their duty will be to examine exemptions, credits, and deductions and to come up with a plan. The primary task will be to examine what we have, and make recommendations as to what the legislature should or could do to minimize the exemptions.

**MOTION:** **Senator Malepeai** moved to print **RS17153** and **Senator Stegner** seconded the motion.

**Senator Davis** asked **Senator Corder** if the target is to do more than just develop a strategy to statutorily limit exemptions, or is the ultimate target to define which exemptions you want to repeal. **Senator Corder** responded that the legislature has a strategy, but it isn't clear if we do. So the ultimate gain would be that if the legislature has a strategy then let's define it. A part of that would be to define which exemptions might go and what the process would be for the legislature to use, to determine which ones no longer apply. **Senator Davis** asked if he was suggesting that

this strategy would be incorporated in Idaho's Constitution. **Senator Corder** replied no that I am not suggesting that. But we do bind other legislature when we provide for an exemption. **Senator Davis** stated that the language on line 31 states what the job of the committee will be, is to make recommendation for a strategy to statutorily limit exemptions. This is legally impossible to do. In my legal opinion you cannot statutorily limit it and make it binding on subsequent legislature. What will you do as a committee. **Senator Corder** responded the committee will examine exemptions and what information is required to determine what is the value of these exemptions. To a large degree we don't require that information, so that the counties can track the value of certain exemptions. **Senator Davis** stated that he sees nothing in this resolution that says you can also make a recommendation to repeal exemptions. Is that the intent or not? **Senator Corder** answered no, the intent is to do exactly what this calls for.

**Senator Stegner** stated this resolution has the support of the tax committee. It is before this committee primarily for print, but it is an ongoing frustration with what seems to be an inconsistent policy in regards to current tax exemptions. This is just a continuation of several interim committees, and I see this as an education effort to review these policies.

**Senator Darrington** asked if this resolution would be sent to the 10<sup>th</sup> order. **Senator Davis** stated a motion to print will eventually put it right in the 10<sup>th</sup> order.

**Vice Chairman Jorgenson** requested a roll call vote on the motion to print **RS17153**.

Senator Darrington - Nay

Senator Geddes - Nay

Senator Davis - Aye

Senator Stegner - Aye

Senator Little - Absent

Senator Jorgenson - Nay

Senator Stennett - Aye

Senator Malepeai - Aye

Senator McKenzie - Absent

The motion **carried** to print **RS17153**.

## **RS17155**

**Mark Dunham** the Vice President of the Idaho Association of Commerce and Industry, stated he is here today to ask the committee to print **RS17155**. Companies sometimes place certain employees in a position of prominence within the company, and entrust them with confidential and proprietary information. Many employers utilize these key employees to develop and maintain customer, vendor and other business relationships. Often employers seek to protect these legitimate business interests through contracts containing "protective covenants". When the employment relationship ends, there is legitimate concern about proprietary relationships, and that the information might be used against the employer in a competitive nature. This will clarify that employers can seek to protect their legitimate business interests and contracts, with key

employees or independent contractors. These written voluntary agreements will be called protective covenants.

**Mr. Dunham** continued and stated that there are no pending court cases. It has been asked if companies can already enter into such agreements. The answer to that is yes or maybe, depending on who you ask. Currently, there isn't a clear direction in Idaho based on legislation in this matter. The legislature should establish an affirmative public policy that yes they are valid, and that yes you can do them under certain conditions. **RS17155** will clarify that and establish clear public policy for the legislature, employers, and employees.

**Senator Little** asked **Mr. Dunham** if there is code like this in other states. **Mr. Dunham** answered there are some states that have clarified this and some states have considered legislation, and decided not to pursue it. **Senator Little** asked is there any case law, and will this stand judicial scrutiny. **Mr. Dunham** responded in terms of case law there have been court cases in Idaho that have called this into question.

**Senator Stennett** stated on the last page, 44-707 you are basically upending any common law that might be in place today. Can the covenant apply if the employee doesn't work for more than ninety days. **Mr. Dunham** replied I do not think we would be upending all common law cases, we are establishing some sort of standard. On page 2, section 44-2705 it actually establishes a time frame under which the covenant would be in place. **Senator Stennett** asked if a ninety day rule for exemption would no longer apply. **Mr. Dunham** answered that is something that I would have to defer to an attorney.

**Senator Stegner** stated on page 3, line 26, I am concerned with the statement that the court shall not void the protective covenant drafted, if the court finds that the protective covenant is overly broad. If the court finds that it is overly broad, I have not seen language like this in statute. Is this a common statement for the legislature to direct the court. **Mr. Dunham** responded I would never say that you are wrong, but I would encourage you to read the subsequent sentences. They clarify that and the point of this paragraph is to say that the court wouldn't just look at an agreement and say it is too broad and void it. It would suggest or ask the court to tell where it is overly broad, and perhaps modify the agreement to make it enforceable. **Senator Stegner** commented that the language is not clear or precise and he is troubled by the whole paragraph.

**Vice Chairman Jorgenson** asked **Mr. Dunham** if essentially this isn't a non-compete. **Mr. Dunham** responded that it could be a non-compete agreement. There are all sorts of agreements across the state so I would believe this would also cover that. **Vice Chairman Jorgenson** stated that he doesn't see any language in here that would prevent this from post employment use. **Mr. Dunham** answered that one key point that needs to be stressed is that this is a voluntary agreement. I do not see how this would preclude that. He deferred to **Jeremy Pisca**.

**Jeremy Pisca**, is an attorney with the Evans Kane law firm in Boise. **Mr.**

**Pisca** added that he represents Melaleuca in this particular matter. Under current law, nothing restricts you from going to an employee and asking them to sign this type of agreement. It needs to be understood that they are not unlawful, and case law states that they are lawful, but they need additional scrutiny. This bill is not about all employees, it only applies to key employees that are placed in prominent positions.

**Vice Chairman Jorgenson** commented that he is not an attorney but his experience has been, that imposing any kind of agreement on an employee after they are employed, would be unenforceable. He asked if an agreement would be the better solution. **Mr. Pisca** responded that these are employment agreements, and again we are only referring to key employees.

**MOTION:** **Senator Davis** made the motion to print **RS17155** and **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**RS17152** **Senator Little** presented **RS17152** to the committee. This will give the flexibility to the Board of Examiners, to hold their meeting in concurrence with the Land Board meetings. **Senator Little** asked the committee to print **RS17152**.

**MOTION:** **Senator Davis** moved to print **RS17152**. **Senator Geddes** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL APPOINTMENT:** The confirmation vote on **Mike Bosen** to the Idaho State Racing Commission was before the committee.

**MOTION:** **Senator Little** moved to confirm the appointment of **Mike Bosen**. **Senator Geddes** seconded the motion. The motion carried by **voice vote**.

**ADJOURN:** There was no other business before the committee. **Vice Chairman Jorgenson** adjourned the meeting at 9:50 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** March 9, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:00 a.m.

**H218** **Jeff Youtz**, Director of Legislative Services, presented **H218** to the committee. **Mr. Youtz** stated this will put in motion the Capitol Building renovation and expansion. Section 1 recognizes the authority of the Capitol Commission to design a master plan for the Capitol Building. They met on February 28, and approved the compromise reached between legislative leadership and the **Governor**, which called for the renovation and the addition of single story wings, and the assignment of the first floor to the legislature. Section 2 is required to give authority to spend the money that was raised from the sale of bonds, that was authorized last year. The scope of the project was modified so we cannot use the proceeds unless the legislature gives authority to do so. In section 3, it recognizes the aspect of compromise reached with the **Governor** that will assign the first floor of the Capitol Building to the legislature. This is a statutory definition.

**Senator Geddes** stated that we need to inform the committee that there has been some concessions, with regard to the space that is currently occupied by the **Treasurer** on the first floor. That agreement has been negotiated with the **Governor** and the banking aspects of the **Treasurer's Office** will remain on the Southeast corner of the first floor. In the last section of the bill, this was negotiated with the understanding that if the **Treasurer** should ever choose, after being out of the building to not return, or if a future **Treasurer** chooses not to occupy that space either, than that space would be honored by the agreement that was reached with the **Governor**.

**Chairman McKenzie** asked if the **Treasurer** was taking the vault. **Senator Geddes** answered that whoever ends up with that space will probably inherit the vault.



**MOTION:** **Senator Davis** moved to send **H218** to the floor with a **do pass** recommendation. **Senator Jorgenson** seconded the motion and it carried by **voice vote**.

**H152** **Chairman McKenzie** turned the meeting over to the **Vice Chairman Jorgenson**. **Chairman McKenzie** stated that this is one of the recommendations that came out of the Energy Interim Committee relating to the siting of transmission lines on the corridors of national interest. The purpose of this bill is to retain state control over those corridors, rather than have the federal government control them.

**Paul Kjellander**, President of the PUC (Public Utilities Commission) addressed the committee and stated that this is a byproduct of the Interim Committee. What was recognized early on in the committee was that the Federal Energy Power Act of 2005, that was approved by Congress, created a scenario in which it required the state of Idaho to establish a siting transmission authority, in order to avoid the possibility of the Department of Energy and the Federal Energy Regulatory Commission from essentially pre-empting the state of Idaho, as it relates to transmission siting.

**Mr. Kjellander** continued and stated that the Energy Power Act of 2005, recognized that there was critical infrastructure needed in the relationship with transmission. They set out to do two things 1) to identify federal corridors across federal land, and 2) once that process is completed, the secretary of energy will look at the corridors and designate it as a national interest corridor. That designation will essentially mean that the state of Idaho has one year to act, in order to approve any application that may show up on the national interest corridor. If the state does not act within a year, then the Federal Energy Regulatory Commission can then take over the process. This will grant the federal eminent domain status to the applicant. This legislation seeks to fulfill the requirement set out by the federal act. The way to avoid automatic pre-emption, is for the state to create a state wide siting authority. The authority is limited and deals only with the national interest designated corridor. If a corridor is designated, then the PUC will serve as the state siting authority for national interest corridor designated areas only. This will allow us to control our destiny. One requirement of the PUC will be to identify those corridors that may very well be designated as national corridors. We can then alert the cities, counties and the state to look at and establish an analysis that could develop the corridor. Or simply, an analysis that will state we do not want the corridors to go through residential areas.

**Senator Stennett** asked where is eminent domain defined in the code of this bill. **Mr. Kjellander** answered that I believe those are referenced in another section of statute that already exists, and they may not be spelled out word for word. **Senator Stennett** stated we are talking about major transmission lines, my concern is with residential areas. **Mr. Kjellander** responded that nothing will change in relationship to the way in which the property owners would be compensated. **Senator Stennett** asked what is the relationship with tribal land. **Mr. Kjellander** replied that tribal lands are not necessarily in that pathway. Any national interest corridor would

avoid tribal lands. If you look at the initial federal corridor maps you will notice that they are not in the middle of any of those. The PUC has no jurisdiction over tribal lands. They could probably designate the corridor, and if an appeal was initiated, I would assume the federal government would make the final determination. The national interest corridors are not something that we will see everyday. If we see one in ten years, that would be a heavy load. They will be critical infrastructure issues that the Department of Energy deems necessary throughout the West. **Senator Stennett** stated the biggest change here is that we are giving you the authority. **Mr. Kjellander** replied if a county is unable to resolve an issue, then they would send it to the PUC, because we are the state siting authority for the national interest corridor. The counties and other state jurisdictions would have an opportunity to identify those corridors in advance. When they make the filing with the PUC, then we just approve it. The only time we would pre-empt a county is if they could not resolve a specific issue. What we are doing here is to put the counties and cities on alert, if we sense that there may be a national corridor. **Senator Stennett** asked how much time will they have to make a decision. **Mr. Kjellander** answered that they have about six months. Pre-filing, and the application process would have to be made.

**Senator Malepeai** asked if counties or cities have an existing land use, and the transmission is proposed, can the PUC determine the line. **Mr. Kjellander** answered that the PUC would make the determination, and if we weren't there to do so, the federal government would in lieu of a state siting authority. So the intent is that eventually someone will make that decision. If it is at the federal level, public input may not be as accessible at that point. When a national interest corridor is designated and the applicant shows up, there is a good chance that the line will be built. This is an opportunity to try and control the destiny within the state of Idaho, through local government as well as the state. If we do not have a siting authority like this, the federal government will take it over. **Senator Malepeai** asked how does the economic part play out in the decision making process. **Mr. Kjellander** responded if you are talking about devalue of land it would be a part of it, and it wouldn't change in either venue. There are federal and state statutes that deal with those issues.

**Chairman McKenzie** stated that the interim committee saw this as a way to give the state an opportunity to retain some control over these siting issues, when the federal government designates these corridors.

**MOTION:**

**Chairman McKenzie** made the motion to send **H152** to the floor with a **do pass** recommendation. **Senator Geddes** seconded the motion and the motion carried by **voice vote**.

**H243**  
**H244**

**Senator Davis** stated that **H243** and **H244** are being referred out of committee.

**MOTION:**

**Senator Davis** moved to send **H243** and **H244** to the floor without any recommendation for referral. **Senator Geddes** seconded the motion, and the motion carried by **voice vote**.

**HCR8**

**Representative Trail** addressed the committee regarding **HCR8**. This is

a human rights resolution stating that the state of Idaho is committed to the principle of human rights and recognizes the unique value of the human character in its great diversity and wealth of variety. **HCR8** is consistent with the statement adopted at the Idaho Republican Platform on June 17, 2006. **Governor Otter** is committed to human rights. Idaho and many states have had its human rights challenges over time. We have made remarkable progress in the improvement of our human rights record in Idaho, but we are still faced with significant challenges.

**Representative Trail** continued and stated that in our neighboring state of Washington, complaints of religious discrimination at jobs and schools in Washington state are at the highest in the past 15 years. In a recent court case, the Wal-Mart in Lewiston settled a racial harassment lawsuit stemming from a complaint of an African-American employee. Crimes are up six hundred percent nationwide according to the Center for New Community out of Chicago. **HCR8** simply calls upon the Idaho legislature to further the commitment to human rights and to act upon this commitment. We do this every two to four years in our party platforms, and each day we renew our commitment to God and country by prayer and the Pledge of Allegiance.

**TESTIMONY:**

**Marilyn Shuler**, the retired Director of the Idaho Human Rights Commission testified in support of **HCR8**. **Ms. Shuler** stated that in the 1970's the ARYAN Nations, a paramilitary hate group, were doing some outrageous things in Idaho. Things have changed considerably, and the legislature's swift response to that group surprised the nation. The **Attorney General** stepped up and the legislature passed the Malicious Harassment Statute. If you cross the line in Idaho you will be prosecuted if you engage in racial bigotry, malicious harassment or other discrimination.

**Amy Herzfeld**, Executive Director of Idaho Human Rights Education Center stated she is here to testify in support of **HCR8**. She works with countless groups and individuals across the state who share a profound moral obligation to stand up for the rights of others. The mission of the center is to promote respect for human dignity and diversity through education, and to foster individual responsibility to work for justice and peace. **Ms. Herzfeld** provided a written copy of her testimony to the committee. A copy is on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

Pam Baldwin, Executive Director of The Interfaith Alliance of Idaho addressed the committee in support of **HCR8**. The Alliance is a mainstream faith based group committed to the pursuit of individual dignity and the importance of community. They promote the positive and healing role of religion in public life. **Ms. Baldwin** stated that when we fail to support legislation for human rights, we leave ourselves open to the opposite, which is discrimination and hate crimes.

**Representative Trail** summed up and stated that we are seeing an increase in activity with regard to gangs in Boise and Meridian. We need

to renew our commitment for human rights in the state of Idaho. He urged the committee to pass **HCR8**.

**MOTION:**

**Senator Malepeai** moved to send **HCR8** to the floor with a **do pass** recommendation. **Senator Little** seconded the motion. The motion carried by **voice vote**.

**S1178**

**Dan Steckel**, the attorney for the Division of Human Resources presented **S1178** to the committee. **Mr. Steckel** stated this bill will devolve the Division of Human Resources and move most of its functions to the Division of Financial Management, Department of Labor and Professional Technical Education. There is some clean up language, clarifications and miscellaneous changes. On page 3, section 1, line 43 and 44 the personnel act has been repealed. Page 4, section 67-3532 the Division of Human Resources is now the Bureau of Human Resources under the Division of Financial Management. In the definition section, which has nothing to do with the devolvement, definitions are changed to better match the standards. New language is added for nurses under the professional exemption. The market practice is to pay them time and a half for overtime, but they are straight time employees. This adds flexibility for that purpose. The definition for computer worker is new to match the federal definition. Earned administrative leave and eligible definitions have been removed. Eligible will now fall under labor's responsibility.

**Mr. Steckel** continued explaining the changes to the bill and referencing the current bill to reflect the changes. **Mr. Steckel** added that he is personally not aware of the status of the Department of Administration bill, but on line 26, of page 9, it makes the employees of the new Division of General Services non-classified.

**Senator Davis** commented that currently there is no Division of General Services and there is no bill for the devolvement of the Department of Administration. You are telling us this bill already has to be amended. **Mr. Steckel** responded and said yes, if there is no Division of General Services that would have to be amended.

**Senator Stegner** stated this is very difficult and **Mr. Steckel** is running through this very fast. Are we to assume that every strike in this is not included in the bill? **Mr. Steckel** replied that he does appreciate how very difficult this is. **Senator Stegner** stated I assume what we've been provided is the existing law. **Mr. Steckel** stated yes it is, and the strikeouts that you see on the existing law are not visible on the bill, because the existing law was repealed and replaced with entirely new code. It was provided to better assist you with going through this process. **Senator Stegner** asked if the strikeouts are language that is not transferred to the new law. **Mr. Steckel** answered yes, and as an example there may be a knockout to the word department, and then it is replaced with bureau. **Senator Stegner** commented you have run through many technical changes dealing with classification of employees, and this is not a simple change in authority. We are now changing fundamentally some aspects of state policy. This is not just the

elimination of a division. We are doing this through the State Affairs committee, rather than the committee that normally deals with human resources in the state of Idaho. In order to evaluate the changes and their significance I do not feel that I am being afforded a proper evaluation of these changes. The committee requested a side by side comparison of the changes, and why haven't we been given that comparison. **Mr. Steckel** replied with regard to the side by side it was my understanding that in later conversations, it was no longer required.

**Senator Davis** stated if **Judie Wright's** conversation with me was my waver either personally or on behalf of this committee, than she misunderstood. I do not have the right to speak for the committee, and I feel uncomfortable proceeding without the side by side. This is inadequate and I am not prepared to vote for anything without that understanding.

**Chairman McKenzie** stated if that is a shared opinion of the committee, than I do not think **Mr. Steckel** should continue today without the information to make the committee comfortable in dealing with this. We should entertain a motion to have this come back before the committee.

**Mr. Steckel** responded half of the side by side is in front of you. The other half was prepared and I can provide copies if the committee would like to go out of order.

**Senator Geddes** stated I think it is great that **Mr. Steckel** and **Judie Wright** are here, but my concern is that I may be asked to sponsor this bill. How could I convince thirty-five senators to support this, based on this information. The committee requested a side by side, and I thought that meant existing language, the changes, and justification for the change. We need more than this and a clear understanding of what we are asking people to do and to vote on.

**CONSENT  
REQUEST:**

**Senator Davis** asked for unanimous consent to **hold S1178** in committee for rescheduling at the call of the chair. **S1178** was held for rescheduling.

**RS17158**

**David Hensley**, legal counsel to the **Governor** presented **RS17158**. **Mr. Hensley** stated that this will replace the word facility with program, throughout chapter 13, title 66 of Idaho Code. Additionally, it will make minor technical changes in that chapter. What this will not do, is diminish the Department of Corrections responsibility to provide care for individuals displaying evidence of mental illness, and acquiring diagnostic services or treatment in a maximum security setting. In addition to that, this will not preclude a future facility. This legislation is important for three reasons. First, it would modernize the code in how the department provides care. This law was originally passed in 1976, and the state had and operated a facility for this segment of our corrections population. Today we have rules, but we have no facility. Secondly, this would reduce potential liability to the state. We provide care and treatment in a secure setting, however, we are not meeting the letter of this rigid law. Third, **RS17158** will give the **Governor** and legislature time and flexibility to craft a long term solution, while still providing care and treatment to these individuals.

**MOTION:**               **Senator Darrington** moved to print **RS17158**. **Senator Davis** seconded the motion.

**Senator Stegner** stated I think I understand the target of the legislation, and I have been one of the critics of the state of Idaho, when I found out this statute was on the books. I have suggested to a number of committees that this be a priority in the state. **Senator Stegner** asked if this was an attempt to redirect any effort by the department to fulfill its need for the severely mentally ill inmates.

**Mr. Hensley** answered that the **Governor's** long term concern is treating these individuals, providing the care that they need, and in no way is this a means to divert the future effort to create a facility, or to reduce or diminish the care provided to them. The **Governor** would rather see money spent on providing treatment, going towards a facility, than a lawsuit that we are clearly not meeting the actual letter of the law.

There was no other discussion. The motion carried by **voice vote**.

**ADJOURN:**           **Chairman McKenzie** adjourned the meeting at 9:05 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** March 12, 2007

**TIME:** 8:00 a.m.

**PLACE:** The Gold Room

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:07 a.m. The **Chairman** welcomed the House State Affairs committee for the presentation on the significance of the U.S. Military presence in the Pacific Rim.

**PRESENTATION:** **Major General La Frenz** introduced **Lieutenant General Bruce A. Wright**, the Commander of the U.S. Forces in Japan, based at Yokota Air Base, Japan. The **Major General** stated that **Lieutenant General Wright** is a native of Idaho who has a diverse background in the Air Force. The Pacific Rim is an area that is strategically important to the United States, that is growing economically as well as militarily. The United States is actively engaged in the Pacific Rim, and approximately 2.3 billion dollars comes to the state of Idaho through exportation. The **Major General** added that **Lieutenant General Wright** is the Commander there, and he is also the Commander of the 5<sup>th</sup> Air Force. Additionally, he is also the senior U.S. Military Representative in Japan. Under his direct command, there are some fifty thousand military personnel. He received his commission at the U.S. Air Force Academy in 1973, and he has held command at all levels. Prior to assuming his current position, he was Vice Commander Air Combat Command with headquarters at Langley Air Force Base in Virginia. **Lieutenant General Wright** is a command pilot with over thirty-two hundred flying hours, principally in fighter aircraft, including sixty-five F16 combat missions flown during Operation Desert Storm.

**Lieutenant General Bruce A Wright** addressed the committee regarding the Pacific Rim. The **Lieutenant General** stated that what we fight for in the U.S. military is exemplified right here. When you see other cultures and countries that have never tasted or had a sense for, or been raised in an environment of freedom, there is no doubt that what we have here in the United States is a gift. The **Lieutenant General** added that the fifty thousand soldiers in Japan are committed to defending that, no matter

what it takes.

A copy of the presentation including the power point portion is attached to the original minutes on file in the Committee Office, until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**Chairman McKenzie** thanked **Lieutenant General Wright** for his presentation. The joint meeting was adjourned.

**RECONVENE:** After a brief recess, **Chairman McKenzie** called the meeting to order at 9:07 a.m. and the committee continued with their agenda.

**RS17139** **Paige Parker** from Legislative Services introduced **RS17139**. **Mr. Parker** stated that this is the omnibus temporary rule resolution. There was an error in the previous bill. The Pro Tem pointed out that we cannot amend a concurrent resolution, so a new bill was drafted. This will approve all the temporary rules with some exceptions. Five temporary rules were rejected by the Commerce and Human Resources committee.

**MOTION:** **Senator Stegner** moved to print **RS17139**. **Senator Little** seconded the motion and the motion carried by **voice vote**.

**H207** **Tim Hurst**, from the Secretary of the State's Office presented **H207**. **Mr. Hurst** stated that **H207** deals with Constitutional amendments. Prior to the last election they were asked by a number of people, including the legislature, why more information regarding the Constitutional amendments were not included in the voter's pamphlet. The Constitution requires this and directs the Secretary's Office to publish the amendments and the arguments for and against them, three times in every newspaper in the state of Idaho before the election. This will direct the Secretary of State's Office to publish a voter's pamphlet whenever there are Constitutional amendments or initiatives, and include the arguments both pro and con.

**Senator Little** stated that he is reading 34-1812C, and D. He asked **Mr. Hurst** to explain what D has to do with the amendment. **Mr. Hurst** replied it says if they are combined, than the initiatives have to be included in the pamphlet. It is a legal notice but does not meet the requirements for the Constitution. **Senator Little** asked if now we are putting into law that we have to do this. **Mr. Hurst** answered yes, but also if there are no initiatives, that we will publish the pamphlet for Constitutional amendments, which it does not allow for now.

**MOTION:** **Senator Davis** moved to send **H207** to the floor with a **do pass** recommendation. **Senator Malepeai** seconded the motion. The motion carried by **voice vote**.

**H214** **Mr. Hurst** continued and stated that **H214** is basically a clean up bill. It deals with various statutes in Title 34 and 50 to keep it consistent, so there isn't confusion to the voters in the election process. Section 1 deals with the electioneering. Current law states that there is a difference in where the electioneering occurs. If it is on public property it cannot be within three hundred feet of the polling place. On private property it



cannot be within one hundred feet. This will make it one hundred feet and clear for everyone. Section 2 relates to the presidential preference primary, if someone is not a national recognized candidate, they can pay a fee and do it fifty days before the election. This will allow time for the absentee voters. Section 3 takes away the sections of code that were deemed unconstitutional by the courts.

**Mr. Hurst** continued and stated that Section 4 and 13 removes the requirement to record the name and address of an absentee ballot, if it is not received via the U.S. mail. Section 5 and 14 will allow the counties to have a central count and hold the absentee ballots at the courthouse. Section 6 and 15 deals with the requirement of paper ballots and deleted, because we don't fold punch cards or optical scan ballots. Additionally, when a voter returns the ballot they can place it in the ballot can. Section 7 will remove the Constitutional requirement that signers of initiative petitions be from twenty-two different counties. The court has determined this to be unconstitutional, because there is an uneven distribution of voters by county. In Section 8 it adds certification by the Secretary of the State. Section 9 and 10 repeals and puts back in the wording, that defines the City Council's responsibility and role in supervising elections.

Section 11 will allow the City Clerk to prescribe an alternative procedure in case of emergency or national disaster. This brings it in line with Title 34 and the Secretary of the State's responsibility. Section 12 brings city in line with county law, to increase the openness in the election process. It defines the "watcher" and allows for watchers and challengers. In Section 16 it will make it clear that campaign finance reporting laws apply to the city. The last Section, 17 will make it clear that Title 50, Chapter 4 applies not just in Sections 401 to 422. This way we will not miss amendments or changes made in the future.

**MOTION:**

**Senator Davis** made the motion to send **H214** to the floor with a **do pass** recommendation. **Senator Geddes** seconded the motion and it carried by **voice vote**.

**H110**

**Roger Hales**, who is an attorney, represents the Bureau of Occupational Licenses. **Mr. Hales** presented **H110** and stated that this is on behalf of the Idaho State Athletic Commission. Last year the commission was moved to the Bureau of Occupational Licenses. This act will facilitate that transfer, and it will clarify the commissions duties, and make it consistent what the commission's jurisdiction is over boxing, wrestling, martial arts and kick boxing. On page 2 at the top there is a change of the Athletic Commissioner's compensation to an honorarium, which increases fifty dollars to one hundred dollars. **Mr. Hales** added beyond that they are including the addition of kick boxing and martial arts.

**Mr. Hales** continued and stated that on page 4 there is a change in section 54-403 to facilitate the bureau, providing the agents necessary for the commission to act. Section 54-404 eliminates the language for civil and 405 adds the language for kick boxing and martial arts. On page 6 it outlines the commission's duties, sanctioning permits and again adding the language for kick boxing and martial arts. Pages 7 and 8 have minor cleanup language. There is an addition of the Bureau of Occupational

Licenses as the fund. Section 54-411 makes it consistent with activity prior to holding an event. Page 9 changes the State Athletic Commission to the Occupational Licensing Fund, and there are some minor changes for the remainder of this.

**MOTION:** **Senator Little** moved to send **H110** to the floor with a **do pass** recommendation. **Senator Stegner** seconded the motion and the motion carried by **voice vote**.

**ADJOURN:** There was no other business before the committee. **Chairman McKenzie** adjourned the meeting at 9:33 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** March 14, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:02 a.m.

**GUBERNATORIAL APPOINTMENT:** **Richard Cade** addressed the committee regarding his appointment to the Idaho State Racing Commission. **Mr. Cade** stated that he is retired from the State Department of Law Enforcement, where he worked for thirty-six years. He has been on the Racing Commission for six years, and after that he was the steward for the commission and worked the fair circuit for five years.

**Senator Darrington** asked **Mr. Cade** if the fair circuit will survive. **Mr. Cade** replied I think it will survive. Traditionally they are not making any money because the costs to operate outweigh what they are bringing in. It is a tradition with the fairs throughout Southeast Idaho, so I believe they will continue on.

**Chairman McKenzie** advised **Mr. Cade** that his appointment will be voted on at the next meeting.

**H123**

**Representative Wills** presented **H123** to the committee. **Representative Wills** stated that this bill is before the committee mainly due to technological advances. All counties and cities that have a 911 system are assessed a fee for the telephone systems when they call 911. The fee is one dollar per month and it goes to the counties. This bill addresses the issue of the fees, due to the implementation of VOIP's (Voice Over Internet Protocol) which is another way of contacting 911. This service needs to be added to the same 911 assessment fee, that all phone lines have. There is not fiscal impact to this as it does not affect the general fund.

**Representative Wills** continued and stated that prepaid wireline, wireless and VOIP phones are not considered prepaid calling cards. This was inserted on page 4 of the bill. There has been discussion as to whether or

not a fee can be collected from prepaid calling cards. **Representative Wills** asked the committee to send this to the amending order to insert prepaid wireline, wireless and VOIP phones, who do not having a service address for primary use.

**Senator Geddes** asked **Representative Wills** is the capability there to know who is using VOIP for 911 with internet systems. **Representative Wills** answered yes, if they have that system, they know when 911 is accessed. They provide the information and pay the fee.

**MOTION:**

**Senator Malepeai** moved to send **H123** to the amending order. **Senator Little** seconded the motion and the motion carried by **voice vote**.

**H248**

**Chairman McKenzie** turned the meeting over to **Senator Darrington** to chair while he presented **H248** to the committee. **Senator Darrington** is the senior member on the committee. Joint rules provide for this when the **Chairman** and **Vice Chairman** are absent.

**Chairman McKenzie** presented **H248** and stated that this bill provides when an abortion is performed, and ultrasound is used, that the woman has the right to view the image. Information is vital to make an informed decision regarding abortion. This is based upon what has been passed in other states. The **Attorney General** has no issues with this.

**Senator Malepeai** asked **Chairman McKenzie** how long has this been in place in other states. **Chairman McKenzie** answered that it has been in place in Arkansas, Michigan, Indiana, Alabama, Oklahoma, Wisconsin and Utah since the early nineties, and he is not aware of any challenges that have questioned the constitutionality or validity of the law. When the **Attorney General** reviewed this, he looked at case law in those states and found no constitutional issues. **Senator Malepeai** asked if there is any case history regarding challenges in any of those states. **Chairman McKenzie** responded that he believes that is correct. In Arkansas this is in full force and effect and has not been challenged or overturned.

**TESTIMONY:**

**Marty Durand** testified in opposition to **H248**. **Ms. Durand**, the Executive Director of the Idaho Woman's Network stated that this is unnecessary. Women seeking abortions can already request to see an ultrasound image. This bill makes no exception for a woman who terminates a pregnancy because of abnormalities, or if she places her own life or health at risk. Additionally, it does not address when the pregnancy is due to rape or incest. This legislation does not have the best interest of all women in mind. Finally, this bill does nothing to improve the quality of healthcare. Idaho's Informed Consent Law already insures that patient's receive full information on the abortion procedure, possible risks and alternatives available. **Ms. Durand** urged the committee to reject **H248**.

**Vice Chairman Jorgenson** assumed the Chairmanship of the committee.

**Hannah Saona** addressed the committee. **Ms. Saona** stated that she is Legislative Council, for the ACLU (American Civil Liberties Union). The ACLU opposes **H248**, and this bill is bad policy. The Informed Consent

Law already requires that certain information be provided to the patient before an abortion. The physician is required to provide any additional information, in the physician's judgment that is relevant to the patient's decision to have an abortion, or carry the fetus to term. **H248** is not the way to reduce unplanned pregnancies, it is cruel, insensitive, and unnecessary. **Ms. Saona** urged the committee to not support **H248**.

**Fairy Hitchcock**, a concerned citizen, stated she is here to speak against **H248**. **Ms. Hitchcock** added that she does not believe that ultrasound is a necessary ingredient, for a woman to be persuaded in any way. The bill states that ultrasound is used in the performance of an abortion, and she has never heard of it being used in one. **Ms. Hitchcock** continued and said that her daughter became pregnant and was provided a copy of an ultrasound. Ultrasound images do not show great detail in the early stages of pregnancy, and that image will not sway them.

**Kerry Uhlenkott**, the Legislative Coordinator for Right to Life of Idaho, addressed the committee in support of **H248**. **Ms. Uhlenkott** stated that the sponsors of the bill worked diligently on this pro-life legislation. This bill will offer the woman an opportunity to view the ultrasound image, prior to having an abortion. It is imperative for a woman to have all the facts to make an informed decision. Pro-life care centers across the country and here in Idaho, report that women who view the ultrasound image decide to carry the baby to term. There is a vast difference between pro-life pregnancy centers and the abortion facilities. Abortion facilities actually discourage the patient from viewing her own ultrasound, and will even turn the monitor away. Seven states have ultrasound provisions in their law. Our **Attorney General's** Office has stated that **H248** has no obvious constitutional defects, and that there is no reason for us to believe that a court would hold it to be unconstitutional." **Ms. Uhlenkott** asked the committee to support **H248**.

**Marilyn Scott**, the Executive Director of the Pregnancy Crisis Center in Twin Falls, stated she deals with this issue on a daily basis. **Ms. Scott** added that the center sees over six hundred patients a year. Women come to the center for pre-pregnancy tests and information on their options, and they share information on all three options, parenting, adoption and abortion. If they choose abortion they support them and the center provides post-abortion support groups. Those who say that viewing an ultrasound image is cruel have never been there, and involved in those difficult situations, or they would understand the compassion that is involved. This issue also affects the fathers of the unborn child. In conclusion **Ms. Scott** stated that she believes every woman who is considering an abortion should have this opportunity.

**Megan Drayton** stated last year she was pregnant and in an abusive relationship. Her thoughts turned to abortion as a solution. When she was eight weeks into the pregnancy she had an ultrasound and viewed the image. This was a turning point for her, she had a baby growing inside of her. **Ms. Drayton** added if she had not viewed the ultrasound her daughter would not be here today. She gave her daughter up for adoption last November, and she gave her life because she had the

chance to see that she was alive. She urged the committee to support **H248**.

**Jason Herring**, the Legislative Assistant to Right to Life of Idaho, testified that he is here today in support of **H248**. **Mr. Herring** stated our organization believes that a woman has the right to view an ultrasound image before making a decision regarding an abortion. The only thing that people on both sides of this issue seem to be agreed upon, is that there should be fewer abortions. There is ample evidence in studies done across the nation, including studies done by Planned Parenthood, that a mother who views an ultrasound image results in fewer abortions. **Mr. Herring** added that this piece of information will ensure that women who are considering an abortion are fully informed. We commend the Representatives and Senators who worked on this legislation, and we ask you to vote a "Do Pass" recommendation on **H248**.

**David Ripley** the Executive Director of Idaho Chooses Life, addressed the committee. **Mr. Ripley** stated that in a recent email a woman expressed her dismay over her abortion because she had not been properly informed. **Mr. Ripley** asked the committee to support this legislation. It is an important piece in building a better, stronger informed consent law.

**Bryan Fisher** testified in support of **H248**. **Mr. Fisher**, is the Executive Director of the Idaho Values Alliance. He stated that a woman should not be denied the right to view an ultrasound image. Abortionists recognize that the effect of such images affect a woman's decision when she exercises her right to choose. **Mr. Fisher** added that a study done in 2002 by **Dr. Eric J. Keroack**, a gynecologist in Boston, revealed that before the center began using ultrasound technology, sixty-one percent of abortion-minded women chose abortion. Thirty-three percent chose to carry their babies to term after viewing an ultrasound image. Idaho's women have a right to full medical information before making any major health decisions. The Idaho Values Alliance urges your support of **H248**.

**Burke Hays**, a lobbyist representing Planned Parenthood stated he is here today to speak in opposition of **H248**. Planned Parenthood feels this bill is unnecessary and cruel. It is unnecessary because the ultrasound is used prior to an abortion to determine gestational age, and to determine if there are any abnormalities that may complicate the abortion. **Mr. Hays** stated the patient's safety is their top priority. During this process the woman may request to view the image, and they are never denied the opportunity to view if she so desires. The proposed legislation argues this, but there is another issue that has not been considered. Women often undergo an abortion procedure out of necessity if the fetus has abnormalities, or perhaps carrying the fetus to term will endanger her own health. **Mr. Hays** asked the committee to consider how this would affect the woman under those circumstances. The way to prevent abortion in the state of Idaho, would be to provide comprehensive sex education.

**Senator Davis** stated that Mr. Hays indicated that there are four instances in which it would be cruel for a woman to view. He asked **Mr.**

**Hays** out of the abortions that Planned Parenthood performs, what percentage of those would be the sum of these four. **Mr. Hays** answered he does not have those numbers and that he does not believe they keep track of them either. On a national scale he would maybe be able to provide that.

**Sue Drayton** stated she is here in support of **H248**. She is a concerned citizen and believes it is unfair to further victimize women, who have been victimized by rape or incest. They need this information to make a decision and we need to give them their dignity.

**Brenda Saltzer**, Executive Director for Care Net of the Palouse testified in support of **H248**. **Ms. Saltzer** stated that Care Net provides healthcare to women and children. In addition to that, the center provides infant clothing and furniture, emergency formula and diaper supplies, and quality community referrals. The center has approximately 700 clients visits each year. **Ms. Saltzer** added that she supports this legislation because she supports the free dissemination of information and knowledge. Disclosure laws are in place in many areas of state and federal agencies, and they are in place to protect the consumer. In the last few months, seventeen women were considering abortions at the center. Fourteen of those women changed their mind, after viewing their ultrasound image. Full disclosure had an impact on their choice.

**Senator Darrington** asked **Ms. Saltzer** to explain how ultrasound equipment is used in the performance of an abortion. **Ms. Saltzer** replied that an ultrasound is done to determine the age of the fetus, and provides information as to what type of abortion will be performed. **Senator Darrington** commented that he understands the why, he wants to know how. **Ms. Saltzer** replied she is not a medical professional and I am puzzled by that wording as well.

**Senator Malepaei** asked **Ms. Saltzer** if women have access to this now, if they request it. Don't they have access to everything including the image. **Ms. Saltzer** answered that standard procedure in most abortions is to turn the screen away, so the women who is in crisis doesn't always think that she needs to request it. So the importance of the legislation is that the physician tells the woman she has the right to view the image.

**Julie Lynde**, Legislative Director for Cornerstone Institute, spoke in support of **H248**. **Ms. Lynde** stated that this is a compassionate bill that allows Idaho's pregnant mothers the dignity of knowledge, and full access to the medical advances represented in ultrasound technology. Abortion does have risks and complications. Abortion is legal in the United States and safety continues to be an abortion concern, for which the use of ultrasound has become an answer to one of the issues of safety. **Ms. Lynde** continued and stated abortion is no gift to women. **H248** will tell the physician that he has to offer the women to view the ultrasound. This will take pressure off of her when she may be vulnerable and in crisis. Knowledge that comes from receiving accurate, objective, scientific information is critical. **Ms. Lynde** urged the committee to support **H248**.

Copies of testimony that were provided to the committee are attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**MOTION:** **Senator McKenzie** moved to send **H248** to the floor with a **do pass** recommendation. **Senator Little** seconded the motion.

**Senator Stennett** asked if **Chairman McKenzie** would yield to an inquiry. He asked **Chairman McKenzie** to explain what it means "to use an ultrasound in the performance of an abortion". **Chairman McKenzie** replied that if it is used in the actual performance, or as part of the procedure that leads up to the abortion. For example, to look at the position of the fetus or to determine the age. **Senator Stennett** asked if they had considered the option if the people do not want this in Idaho. **Chairman McKenzie** responded no, the use of ultrasound is made from a safety perspective. **Senator Stennett** asked what if the physician decided not to use an ultrasound, would there still be the requirement to ask. **Chairman McKenzie** answered yes, that is correct.

**Vice Chairman Jorgenson** requested a roll call vote on the motion.

Senator Darrington - Aye

Senator Geddes - Aye

Senator Davis - Aye

Senator Stegner - Nay

Senator Little - Aye

Senator Jorgenson - Aye

Senator Stennett - Nay

Senator Malepeai - Nay

Senator McKenzie - Aye

The motion carried to send **H248** to the floor with a **do pass** recommendation.

**H223** **Representative Rusche** presented **H223** to the committee and stated that this adds to consumer protection language in Title 48, Chapter 10. Automated telephone calls have become a staple in political campaigns and charity fund raisers. Additionally, it is used to remind patients of doctors appointments, sales events at local stores, and to encourage attendance at various events. These calls can cost as little as three to five cents per call, or even less if you have your own computer to produce them. This bill does not restrict the use of automated dialing announcing devices, or the calls that are made by them. **Representative Rusche** added what it does is require information, and it applies to all automated calls regardless of sponsor or content. Three things would have to be provided at the initiation of the call, 1) the name of the person for whom the call is being initiated by, 2) the purpose of the message, and 3) the contact information. This requirement will assure that the person receiving the call can choose whether or not to hear the message, it will lessen the likelihood of misleading or deceptive calls, and it will empower the receiver to contact the caller and request that further calls not be placed, or to request additional information.



**Representative Rusche** continued and stated that robo calls are extremely unpopular when they happen with frequency. This bill is consistent with the wishes of the vast majority of Idahoans, and it is good public policy. He asked the committee to send this to the floor with a **do pass** recommendation.

**Senator Jorgenson** stated that if this bill were to become law, it would only restrict calls on land lines, and it would not have the same application for telephone via computer or cellular. He asked **Representative Rusche** to confirm that. **Representative Rusche** answered no, that he cannot confirm that. **Senator Jorgenson** stated if that were the case, would you believe that it would be unfair competition. **Representative Rusche** replied that there are certain federal rules regarding solicitation and the use of cellular phones. It is his belief that such automated calls cannot be made under federal law, because of the fact that you are paying for the time used for the call. But, he does not know that for certain. **Senator Jorgenson** stated that he believes that a cable or computer service provider would not be compatible.

**Senator Davis** stated that on line 16 there is a duty to disclose the contact information. He asked what would qualify as contact information. **Representative Rusche** answered it would be, address, phone number, and email address. **Senator Davis** asked what is the target for this. **Representative Rusche** responded that there were many requests by constituents with regard to robo calls. There has been an increase in these types of calls. The **Attorney General's** Office suggested adding this to the consumer protection language. **Senator Davis** asked by requiring the information of a, b, and c on lines 14 through 16, will this increase the cost of the call. **Representative Rusche** answered no. The purpose is to provide the information so the person can decide if they wish to receive the information. **Senator Davis** asked if the cost is driven by the number of calls plus the length of the call. **Representative Rusche** replied that they are sold by the number of calls, with a discount for volume, and they are sold in different amounts of time.

**Senator Geddes** stated this reads very well if a person is organizing the calls. On line 11 it states if a person intends to utilize, how does this apply to an organization for the information disclosure. **Representative Rusche** answered that the **Attorney General** explained this applies to an individual person as well as a corporate individual.

**Senator Stegner** stated that his interest in this legislation is different. He is interested in enhancing the disclosure for political activities. The state of Idaho and the federal government tried to restrict telephone advertising. Charitable contributions for charitable organizations have been exempted. Another example is if I have a relationship with a business that I routinely do business with, there is flexibility. We also exempted political activities and that is abused from time to time. Some calls were made theoretically on his behalf during the last election, which caused a tremendous amount of anxiety because they were unethical. This bill will allow for full disclosure at the beginning of the call, and hopefully keep this type of activity above board.

**Senator Jorgenson** stated this is a two edge sword. Personally he has used this process and found it to be the most cost efficient way, to reach a lot of people. It is important to minimize the number of calls and truly a shame that something good can be used in a bad way. That should go under election law, not legislation. **Senator Jorgenson** added that he could not support this.

**Senator Stennett** asked if there was a penalty clause somewhere in the code. **Representative Rusche** answered that the penalty is covered elsewhere in Consumer Protection Code. Providing misinformation could happen, but enforcement requires that the consumer make a complaint. **Senator Stennett** asked what is the penalty. **Representative Rusche** replied I believe it is five hundred dollars per occurrence. **Senator Stennett** asked if it were per call or event. **Representative Rusche** responded I believe it is up to five hundred dollars per call.

**Senator Little** commented that this is a transparency issue and it is making politicians comply with the same rules as everyone else. This is a good piece of legislation.

**MOTION:**

**Senator Little** made the motion to send **H223** to the floor with a **do pass** recommendation. **Senator Davis** seconded the motion.

**Chairman McKenzie** stated I share concerns about these calls and I don't find them effective when they are used against me. This can be used effectively, but the potential liability under the Consumer Protection Act is staggering because of the number of calls. This only applies to a land line, and I am not sure how this will apply to cellular or voice over internet. I do not support the motion.

**Senator Geddes** stated that **Representative Rusche** taught me that person could be substituted for organization. If I read the last three lines of the bill, subscriber means an organization who subscribes to a telephone service from a telephone company, or other organizations living or residing with the subscribing organization. This is confusing to me.

**Senator Stegner** commented that person is a defined term in the bill.

**Senator Stennett** stated I think the fine should be tougher, and I think we are heading in the right direction. I am just not sure this is the right direction, but I will support this.

**Senator Stegner** commented that this had good support in the House. This will not stop unsolicited and unreferenced calls, but I think this is a step in showing the state of Idaho that we are attempting to live under the same rules that apply not just to businesses.

**Senator Jorgenson** stated he has some questions and he has stated his position. Perhaps the law would be better if it dealt with negative messages. If this isn't going to correct the problem, why are we penalizing a particular business, when there are cell phone and cable phone directories available. This law will not stop that.

**Chairman McKenzie** requested a roll call vote on the motion.

Senator Darrington - Aye

Senator Geddes - Nay

Senator Davis - Aye

Senator Stegner - Aye

Senator Little - Aye

Senator Jorgenson - Nay

Senator Stennett - Aye

Senator Malepeai - Aye

Senator McKenzie - Nay

The motion **carried**.

**RS17147C1**

**Senator Schroeder** addressed the committee and stated two other bills have been introduced on this subject, and they both failed. This bill will correct that and they discuss what is in this bill after it is printed. This bill deals with chronic wasting disease and provides for certain restrictions on the importation and disposal of cervid carcasses, or parts of cervid carcasses from chronic wasting disease. **Senator Schroeder** asked the committee to print this.

**Senator Little** commented that chronic wasting is a real threat to the state. I think this is a good move to get this out there and discuss it. We have put pressure on Fish and Game and this is something the legislature should do.

**MOTION:**

**Senator Little** moved to print **RS17147C1** and **Senator Malepeai** seconded the motion. The motion carried by **voice vote** to print **RS17147C1**.

**MINUTES:**

The minutes of February 26, February 28, and March 2 were before the committee for approval.

**MOTION:**

**Senator Darrington** moved to approve the minutes of February 26, and Senator Little seconded the motion. The motion carried by **voice vote**.

**MOTION:**

**Senator Jorgenson** moved that the minutes of February 28, be accepted. **Senator Little** seconded the motion and the motion carried by **voice vote**.

**MOTION:**

**Senator Stennett** stated he read the minutes for March 2, and requested a correction be made on page 6, and he moved to approve them. **Senator Malepeai** seconded the motion and it carried by **voice vote**.

**ADJOURN:**

There was no other business before the committee, **Chairman McKenzie** adjourned the meeting at 9:33 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** March 16, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, and Stennett.

**MEMBERS ABSENT/ EXCUSED:** Senator Malepeai.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:05 a.m.

**H103** **Chairman McKenzie** stated that **Treasurer Crane** is here today to present **H103** and **H104**, which may go to the Consent Calendar. **Treasurer Crane** presented **H103** and stated that this bill will repeal an obsolete section of Idaho Code. In the early nineteen hundreds, the **State Treasurer** purchased and printed blank warrants, that were issued by the Board of Land Commissioners. The **Treasurer** has not purchased or handled anything to do with this for many decades. It is now handled by the **Controller's Office**.

**MOTION:** **Senator Stegner** moved to send **H103** to the floor with a **do pass** recommendation. **Senator Jorgenson** seconded the motion. The motion carried by **voice vote**.

**H104** **Treasurer Crane** continued and stated that this bill deals with refunding of replacement bonds. Title 57 of the Idaho Code supercedes this section, so it is obsolete. They checked with all agencies who issue the bonds, and they do not use this section of the code.

**MOTION:** **Senator Darrington** moved to send **H104** to the Consent Calendar and **Senator Jorgenson** seconded the motion. The motion carried by **voice vote**.

**H253** **Treasurer Crane** stated that **H253** has to do with the Idaho Bond Bank Authority. Earlier in the session, **Treasurer Crane** explained that they have expenses that are incurred from time to time, and ask for the authority to use the **Treasurer's** appropriations to cover those expenses. Currently they are at thirty-eight million of issued bonds and they are ready to make another issue. He anticipates that they will hit the one hundred million dollar mark before the end of the calendar year. They will begin assessing a small fee on members of the Bond Bank and this is what this allows for.

**Senator Little** asked **Treasurer Crane** what defines the annual revenue. **Treasurer Crane** deferred to **Liza Carberry** from the **Treasurer's Office**. **Ms. Carberry** responded that if there were any revenues that they were going to charge to the participants, they would be able to retain it. In addition to that, if they were to issue more than the participants are requiring and setting aside, the income revenues from that money would be used to defer any kind of default. For example, if ten million was issued then we would issue eleven, and set the extra million into investments. This would secure the remainder of the issue and if there was any income off of that portion, then they could use it. **Senator Little** stated so it is a reserve and the revenue is ten percent, and then the **Treasurer** would be able to keep ten percent of that. **Ms. Carberry** replied that is correct.

**Senator Stegner** asked if we are not going to charge ten percent, then why are we putting it in code stating that we can. **Ms. Carberry** answered that this was added because it is similar to other codes for bond banks, to have that flexibility and freedom to do it. A bond cannot be issued on the market with that type of fee attached. **Senator Stegner** stated that is my point, why don't we just say that. This appears to me to be a pretty outlandish fee in code. What would be a reasonable fee? **Ms. Carberry** responded probably around two and one half basis points. **Senator Stegner** stated that is a huge difference from ten percent. Why don't we say one percent?

**Senator Little** stated the language states "continuously appropriated". We passed legislation this session regarding bond banks, because they are in their infancy. If in twenty years the bond bank is a billion dollars, and it is continuously appropriated, they would have an advantage to issue tax free notes. This would basically put it off line, isn't that true? **Ms. Carberry** answered I understand what you are saying, but I think the idea is as the money grows, that money in and of itself will become an asset to the participants and the state of Idaho. They will be able to offset some of their fees and reduce their costs of borrowing even further. **Senator Little** stated that this says the **Treasurer** is authorized to retain for administration oversight. If the ten percent was put into a fund for security it would lower the interest rate. I am worried about the unintended consequences of this twenty years out, because of the language continuously appropriated.

**Treasurer Crane** stated we would not be opposed to the change in language in that sentence. This is a House bill that needs to be fixed.

**MOTION:**

**Senator Davis** moved to send **H253** to the fourteenth amending order. **Senator Little** seconded the motion and the motion carried by **voice vote**.

**CONSENT  
REQUEST:**

**Senator Stegner** moved to send **H103** to the consent calendar. It has already been moved to the floor with a **do pass**. There was no objection and **H103** was sent to the consent calendar.

**H222**

**Bob Wells** from the **Governor's Office** presented **H222** to the committee. **Mr. Wells** stated this will undo what was put in place in 2004. **H607** put

Commerce and Labor together and **H222** will split them apart. The issue is focus and workload.

**Senator Davis** asked **Mr. Wells** if this becomes law, and I were to do a comparison between the Idaho Code before the consolidation, than compare it after the devolution, will this make it word for word the same. **Mr. Wells** answered I cannot guarantee that it is word for word, but I believe so. **Senator Davis** asked is someone here to answer that question. **Randy Tilley**, from the Department of Financial Management, answered that for the most part, the only addition that is added that changes from **H607**, is the addition of codification of the executive order that moves the disability determination service under Labor. Currently it is done through executive order, and we are putting that into statute with this change. **Senator Davis** asked where is that in the bill. **Mr. Tilley** replied that is on page 5, section 8. **Senator Davis** asked other than section 8 of the bill, will the remainder after the devolution be, word for word, comma for comma, what the Idaho Code read before the consolidation of the two departments. **Mr. Tilley** answered that is my understanding. **Senator Davis** commented my vote will be based on that representation.

**Mr. Wells** stated that it is the intent of the **Governor's Office** to have it that way.

**Senator Stennett** commented that in section 13, page 13, line 30, it appears that you are moving something out of the **Governor's Office** concerning nuclear energy. **Mr. Wells** responded that is correct. That one section is moving from the Department of Labor to the new Division of Building and Safety. This is probably a better fit.

**Senator Little** asked **Mr. Wells** if that is **Kathleen Trevor**, and who studies nuclear energy development? Whom or what are we moving? **Mr. Tilley** responded that the Division of Building and Safety has a small federal program that revolves around energy studies. This is in relationship to that. It is not moving **Kathleen Trevor's** position out of the **Governor's Office**. This is basically to identify that small energy piece that is currently being conducted by the Division of Building and Safety using the federal funds.

**Chairman McKenzie** asked **Mr. Wells** if this was an error in the current code where it refers to the Department of Labor and Industrial Services, or should it have been Department of Commerce and Labor. **Mr. Wells** replied no, I do not believe so.

**Senator Stennet** stated most of the work we do with energy rests with the Department of Water Resources in their energy division. If we are trying to figure out a proper home for nuclear energy development, why wouldn't it move to the Department of Resources. In follow up to **Senator Davis'** question regarding changes in the code, this stood out to me on page 13. If we are changing the code why isn't that program going to where most of our energy development and concepts are developed, in the Department of Water Resources. **Roger Madsen**, the Director of Commerce and Labor responded that it makes sense to him to send it to the Department

of Water Resources.

**Mr. Wells** continued and stated that the focus is on the work load. We applaud the work the director has done, but we feel it is best to have the director focus on just one side of each of these two issues. **Senator Darrington** commented that since they were combined into one agency, he has seen almost a continuous presence in his area. More progress has been made in economic development, and the Department of Labor has seen a continual presence of the Director and his staff. Problems have been resolved and there has been more attention than the last three years. What will my community gain from this? **Mr. Wells** answered you will gain additional services because you will have two directors focusing on each department. **Senator Darrington** added it has been much better than before. **Mr. Wells** stated we concur that the Director and his staff have done a sterling job. They see a lot of good things happening in the future, and it will benefit everyone.

**Senator Davis** stated I am hearing very similar things, and today we have economic development going on in areas that didn't exist before. His fear is what we have done with other departments and will we centralize the Department of Commerce, and lose the economic development tools in each of the communities that we previously had. I would like assurance that is not going to happen. **Mr. Wells** responded that is exactly the **Governor's** intent, to not centralize it and develop more opportunities within the state for both departments.

**Mr. Wells** commented that basically the questions that have been asked cover the areas of my presentation. It would be redundant to go through the bill.

**Chairman McKenzie** asked what are the projections for personnel efficiencies that we will see from this, and what are the benefits of the additional resources? **Mr. Wells** answered there will be no new FTE's (full time equivalency) and we project no cuts in jobs. It will cost approximately one hundred fifty thousand to make the move, and the number of employees should not change at all. **Chairman McKenzie** stated we will have two directors and staff. If there isn't any FTE what are we taking away to handle two different administrators. **Mr. Wells** responded the staff is there presently in both departments. **Chairman McKenzie** commented with two directors there has to be some adjustment in FTE to handle that. **Mr. Tilley** responded this has been before JFAC, (Joint Financial Appropriations Committee) and we have their approval.

**Senator Darrington** asked **Mr. Tilley** what do you mean you have their approval. **Mr. Tilley** answered that the budget has been set based on the revised recommendation of the **Governor**. This includes the cost of the technology move, but there is an additional one half of an FTE. The director is split between Commerce and Labor and the additional one half FTE, will make it a full position on the commerce side. The labor side is continuously appropriated and has no impact on the appropriation.

**Chairman McKenzie** stated he would be more comfortable if he could see a chart. **Mr. Wells** stated he would supply an organizational chart to the committee.

**Eric Milstead**, from Legislative Services stated he wanted to speak to **Senator Darrington's** comments. **Mr. Milstead** stated that JFAC considered the **Governor's** recommendation and passed the original budget. It included an additional FTE. Two bills will be dealt with after the resolution of this bill.

**Senator Davis** stated he would like to hear from **Mike Nugent** to help us understand this. In section 13 we have identified the nuclear energy development issue. He asked if he had been able to ascertain if this will put us back word for word, and comma for comma, before we did the consolidation. **Mike Nugent**, Manager of Research and Legislation in the Legislative Services Office, answered that as near as possible, this is word for word, comma for comma, mirror image of what happened. Every year there are pieces of legislation that amend the existing section. Section 13 just got missed, so that is why it got picked up now. **Senator Davis** asked if section 13 was a technical correction, rather than a move under code. **Mr. Nugent** responded yes, and it is something that should have been picked up when they merged.

**MOTION:** **Senator Davis** made the motion to send **H222** to the floor with a **do pass** recommendation. **Senator Little** seconded the motion. The motion carried by **voice vote**.

**Senator Stennett** commented that he would like an explanation as to why the energy plan shouldn't go to the Department of Water Resources.

**H267** **Mike Nugent** presented **H267** to the committee. **Mr. Nugent** stated that this is a bill that we pass every year and it is referred to as the "Drop Dead Bill". Statute was passed indicating that rules of temporary effect would have to be reauthorized by statute. We have rules that have a temporary effect so this will continue those rules to be in effect, and that they have not been rejected. If the statute is not passed, all the rules will die on July 1, then we would have to come back for a special session to pass the statute.

**MOTION:** **Senator Geddes** made the motion to send **H267** to the floor with a **do pass** recommendation. **Senator Stegner** seconded the motion and the motion carried by **voice vote**.

**RS17181C2** **Senator Goedde** presented **RS17181C2** and stated that this is a recommendation to get rid of two sections of rule that were passed in the Health and Welfare committees on both sides. It appears they missed the controversial issue, and it has a huge potential impact to have sewage disposal systems that are designed and sized in the state of Idaho. This particular bill only deals with the Panhandle Health District. They have changed from bedrooms to square footage, and in doing this it is a fiscal impact to property. Theoretically, if you have a five thousand square foot house and add a five hundred square foot sunroom, it should have impact on the capacity of the drain field, and be forced to double the size of your



drain field. **Senator Goedde** stated that he did not become aware of this until very late in the session. He is back today requesting unanimous consent for this to be heard and reject those two sections. He has an agreement with the Director of Panhandle Health and their counsel, that they will agree to withdraw those sections. The alternative is if the rule remains and this goes to square footage for a year, we will fight this battle next year.

**Senator Jorgenson** asked **Senator Goedde** if he has the support of other groups. **Senator Goedde** answered that I have a letter from the Coeur d'Alene Lake Property Owners Association.

**Senator Davis** stated my problem with this is that I agree with the concept behind this rule rejection. But we are being asked to deviate from the policy that we have. This didn't happen in the germane committee, and we have a member of that committee, maybe he could speak to those concerns. **Senator Darrington** stated that when the Health and Welfare committee considered the rules in the public health districts, this particular bill did not result in any discussion. In years past, there has been discussion regarding the whole idea of using bedrooms as a criteria for establishment of sewage systems. This year there was no discussion about that particular rule, and so the committee approved this routinely for the public health districts. When **Senator Goedde** brought this back to committee, and I insisted it needed to be unanimous, unless Leadership decided otherwise. The committee vote was six to three to proceed, so it failed. The disagreement was that they did not have sufficient information or knowledge to make that determination. **Senator Davis** commented if the committee had chose to print this with the understanding that it would have to go back to Health and Welfare for hearing, instead of sending it straight to the floor in the tenth order, it is still a deviation from the rule. It will allow that committee one more opportunity to decide if they want to move forward. This is probably not a good precedent to set. **Senator Darrington** stated we do not have a hard fast rule about unanimous consent. It is a practice that we follow and I pointed that out to the Health and Welfare committee, as a privileged chairman. It is my point of view that it should be from the germane committee, or by request of Leadership.

**Senator Goedde** commented that in all the health districts in the state of Idaho they are using the bedroom law. Panhandle Health's new rule is a deviation from policy across the entire state.

**Senator Stennett** added that apparently there have been six months of meetings in north Idaho regarding this issue. This is a political compromise that came together with participation from Realtors and developers. If there has been numerous meetings regarding this, why is this legislation trying to weigh in on something north Idaho has already settled. **Steve West**, President of CENTRA Consulting, stated there was a presentation to a rotary group, and it was reported that the North Idaho Contractor's Association is comfortable with this. I have letters from the members of the Idaho Builders Association who agree this is a bad thing. The Association of Realtors endorse this as well as others. **Senator**

**Stennett** stated what I am looking at from the health district, states that there were eight different meetings with the North Idaho Builders Association and six with the Realtors. There was one meeting with the rotary group. **Senator Goedde** replied I do not know the extent of those meetings, but this certainly was not negotiated in the rule book.

**Mr. West** stated that he was the Administrator of the Idaho Department of Environmental Quality from 1997 to 2003. The issue that **Senator Darrington** pointed out was in the Health and Welfare committee. What was lost in that discussion, is the nature of the extent of disclosure for the public meetings that occurred. The problem with this section of the rule that we are trying to reject, is that it increases significantly the stringency on the requirements for septic tank sizes and drain fields sizing requirements. The full impact of that was not made available. We raised the concerns with the Panhandle Health District on behalf of the people, who asked us to address this issue. They have agreed to pull back that section of the rule and work towards a resolution, that would reject this portion of the rule, and we will have an opportunity to spend the next year to review this. **Mr. West** added that the other aspect of this rule that is problematic, is that it assumes people will break the law. The Panhandle Health District is sizing drain fields and septic tanks in anticipation of additional people occupying the home. They are doing this on a grand scale expecting that the system will be circumvented. That is wrong and we shouldn't be penalizing those who are trying to comply with the law.

**Mr. West** stated we have an opportunity to take a step to change this. Rather than having the five northern counties be significantly more stringent than the state, we are asking for an opportunity to reject this rule and allow time for a thorough and technical discussion of what will make sense.

**Senator Davis** stated I do not have the expertise to know if this is a good rule or not. We have a germane committee that does and they should make this decision, not this committee. There was an attempt to try and steer this health district in another direction before the process. I don't understand why this wasn't done during the time we were looking at rules. If they did know and decided not to proceed for whatever reason, than I am not inclined to vote to print the RS. If they didn't catch it until the end, than I need to have confidence that we are playing the rule process the same for everyone.

**Mr. West** responded that I don't believe the people of the five counties should be a victim of process. This rule is not well based technically and we have an opportunity to allow the process to go forward. If it is appropriate we should come back next year with something that will make more sense, without penalizing anyone. **Senator Davis** asked **Mr. West** why wasn't this objected to in January. **Mr. West** answered that he was contacted only slightly before **Senator Goedde**, and part of the reason is inherent in the approach to rules that the health district issues. He was not paying attention to what was going on in the five county area. Sometimes in the process mistakes are made and when that happens, it is incumbent on anyone to bring it to this body's attention. Property

owners may not be able to go forward with an expansion, due to the confusion that this rule will generate. I believe we have a responsibility to look at this to eliminate the impending chaos. This is not the way he would like to do business, but nonetheless, here we are.

**Chairman McKenzie** stated on the issue of process, Rule 11 provides for privileged committees to print bills. Unanimous consent by a chairman from a committee should be allowed to use their discretion, if they choose to print a bill after the thirty-sixth day. I believe it should be the decision of the chairman of a privileged committee to hear legislation, and the members will decide in the hearing.

**MOTION:**

**Senator Davis** moved to print **RS17181C2** on the condition that it go back to the germane committee for their further consideration.

**Senator Geddes** asked **Senator Darrington** after significant discussion, did the majority vote to reject this. **Senator Darrington** replied that the vote was six to three to refer it to my committee for a print, which would have been an acceptance of the rejection of the rule. However, this came up quickly, and there was some discussion, but it was not extensive.

**Senator Geddes** asked if he were comfortable with the motion to send it to Health and Welfare for further review. **Senator Darrington** answered that he does not have a problem with it, and he is not critical of the earlier decision.

**Senator Stegner** seconded the motion, but stated in the interest of fairness and process, the hearing should be well advertised and make sure there is an opportunity for testimony by those who are interested. I am confident to rely on their judgment of the rule, but I agree with **Senator Davis** and emphasize we should give the committee chairman the support needed to hear this.

**Senator Davis** added if I can get a committee report immediately after adjournment, I will make sure that we can get it printed and introduced in the eleventh order, and referred to committee immediately.

**Senator Jorgenson** asked **Mr. West** when was this rule promulgated. **Mr. West** answered that he does not have the answer to that. I would assume sometime back in January. Going forward with the rule, an announcement was posted back in October 2006. **Senator Jorgenson** stated this rule is late because we are just realizing the manifestations of the unintended consequences. **Mr. West** commented that is correct. Part of the problem is due to a lack early on of presenting the engineering calculations. There are issues associated with this rule, but this is not a hostile takeover. We are asking to go forward with the compromise agreed to with the health district.

**Senator Little** asked what is going to be the regulatory atmosphere between now and next year. I assume your client's issue is building density? **Mr. West** responded that the issue is the ability to build a home and be able to install the appropriate sized drain field and septic tank. **Senator Little** stated so Panhandle Health wants a bigger septic system

which will cost your clients more money. **Mr. West** answered it will cost a number of people more money, and it will likely impair the ability to do what you want with your property. Going forward with this will default to what is currently in place.

**Senator Stennett** commented that he has a copy of the letter from Panhandle Health that doesn't agree with your statement, that you have concurrence with them to stand down and go forward with the rule making process. **Mr. West** answered I have not seen that letter, but what I can tell you is that **Senator Goedde** met with them after the letter was drafted. It is my understanding that during that meeting, **Senator Goedde** negotiated a compromise and they agreed to what is in the resolution before you.

**Senator Stennett** commented he agrees with **Senator Davis**, I'm not clear on what we are talking about or doing.

**Senator Stegner** asked **Senator Goedde** to comment on the meeting and the agreement you have with the Panhandle Health District. **Senator Goedde** stated it was also with **Senator Hammond**, and Panhandle Health agreed to hold off and work on this through the interim. It was subsequent to that letter handed out in the Health and Welfare committee. After the meeting it was withdrawn.

**Senator Darrington** asked if they agreed to sit down and work on this through the interim if the resolution was successful. **Senator Goedde** responded yes, that is correct. They will issue a temporary rule, but they are not going to go back to the bedroom requirement. The requirement for square footage will be less stringent.

**Senator Little** asked what rules will apply to a house that is six thousand square feet with three bedrooms, and I add additional rooms under the status quo. **Mr. West** stated there would be a recalculation of rooms, because you would go through a permit process in order to remodel and add additional bedrooms.

**Chairman McKenzie** stated the motion is before the committee to print **RS17181C2**. There was no opposition and the motion carried by **voice vote**.

**GUBERNATORIAL  
APPOINTMENT:**

The confirmation vote on **Richard L. Cade** was before the committee.

**MOTION:**

**Senator Little** made the motion to confirm the appointment of **Mr. Cade**. **Senator Jorgenson** seconded the motion and the motion carried by **voice vote**.

**ADJOURN:**

There was no other business before the committee. **Chairman McKenzie** adjourned the meeting at 9:24 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** March 19, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, and Little.

**MEMBERS ABSENT/ EXCUSED:** Senators Stennett and Malepeai.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:03 a.m.

**PRESENTATION:** **Chief R. Mark Lockwood**, Chair of the SIEC (Statewide Interoperability Executive Council) presented the annual report to the committee.

**Senator Davis** asked **Chief Lockwood** to speak to the one billion dollar funding for interoperable communications, and what the ongoing expectation would be to the state of Idaho. **Chief Lockwood** responded that there will be one billion dollars available for the states to compete against, to obtain funding for this. It is for the 700MHz band, with a twenty percent hard match, which works out to about eighty cents on the dollar. We reviewed and concluded what would be a realistic figure to the state of Idaho, and if we could get a twelve million dollar match, we would be competitive. **Senator Davis** commented as I understand this, we would be required to come up with twenty percent or two hundred million dollars. Twelve million would initially come from the state, some from political subdivisions, and if they didn't, the state would have to backfill it. **Chief Lockwood** replied you are correct in several areas, but I don't know how you arrived at the two hundred million dollar figure. We have estimated the system to run between two hundred fifty and three hundred million for the entire systems build out statewide, and for all partners involved. We are competing for a small portion of that one billion, that has been offered with a hard match of twelve million dollars.

**Senator Davis** stated I don't understand the billion dollars. Will a portion of it be for everyone, and will Idaho receive up to two hundred million dollars, and would that be sufficient to satisfy all the initial interoperable demands. **Chief Lockwood** answered there is one billion dollars offered through the auctioning of areas in the spectrum by the FCC (Federal Communication Commission). There is a twenty percent hard match, and I can't tell you what the state of Idaho will qualify for. **Senator Davis** stated this is what he is hearing, also we are not uniform in our

understanding as to what the price tag will be. What will the initial expectation be, the cost of it, and the ongoing expectation be to the state of Idaho? **Chief Lockwood** replied that initially they did a statewide assessment to ascertain what assets we currently have. We have a microwave backbone, which is being utilized by public television and other public safety entities across the state. This along with other fiber assets that we have to manage or own, will facilitate this new system that is being developed statewide. From those assets and their review, we looked at cities, counties, municipalities, tribes and what private entities have, and we came up with a pretty solid number. That figure is somewhere between two hundred fifty and three hundred million dollars to build a complete statewide system. This will put a radio in every first responder of public safety, upgrading the microwave, adding repeaters, providing the means to develop data transmission sources, and upgrading different regions across the state. This will be done in phases. We are asking in this budget for some hard match to put the state of Idaho, and its jurisdictions, in a position to hopefully draw upon after we compete for the dollars that are out there.

**Senator Davis** stated if it is as high as three hundred million, twenty percent is sixty million dollars. He asked **Chief Lockwood** if the twelve million would be a deposit on it, plus whatever the other subdivisions contribute, and eventually would the price tag be about sixty million dollars to the state. **Chief Lockwood** answered if it remained at twenty percent we are talking about one time money, that is available through the Department of Commerce, which is the one billion dollars that has been dedicated in a previous session at the federal level. We will have one opportunity to compete for this.

A copy of the presentation and annual report is attached to the original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**HJM4**

**Representative Edmunson** presented **HJM4** to the committee and stated this bill is what he calls strength in numbers. This joint memorial will be sent to all Western states and the federal government asking them to form an interim committee, and find a long term solution that deals with sustainable forestry.

**MOTION:**

**Senator Little** moved to send **HJM4** to the floor with a **do pass** recommendation. **Senator Stegner** seconded the motion and the motion carried by **voice vote**.

**H252**

**Senator Lodge** addressed the committee and stated **Brad Pitler**, from Sawtooth Winery and **Roger Batt** for the Idaho Grape Growers and Wine Association, are here to present **H252** to you.

**Mr. Batt** stated that **H252** makes several changes. First, it will allow a licensed winery to be considered to hold both a retail and wine by the drink license. There is a one hundred dollar fee for each license and this will remove that. The second change is that two or more wineries will be allowed to use the same location for their respective wine outlets. There

are several small wineries out there that do not have their own tasting rooms. This will allow them to market their product more effectively. The new code, section 23-1338 streamlines the catering permit process. It will allow the winery to sell wine by the glass at sponsored events if they are seven consecutive days or less. The last section allows an emergency clause to be inserted into the code, which will allow for this to become effective immediately. **Mr. Batt** added that the Food Producers of Idaho are in support of this.

**Brad Pintler**, the General Manager of Sawtooth Winery stated that he is here in support of the bill. Right now wineries can have joint production areas and this will allow for a retail outlet, and to have a joint tasting room.

**MOTION:** **Senator Jorgenson** moved to send **H252** to the floor with a **do pass** recommendation. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

**H237** **Tim Hurst**, from the Secretary of the State's Office stated **H237** deals with the community college formation, and it will standardize the procedure. Current statute requires a petition be signed by not less than one thousand qualified electors in the district. This proposed legislation will require those who sign the petition, to be a registered elector and verified by the county clerk. **Mr. Hurst** added it will also require that the election be conducted according to Title 34, rather than 33, which relates to school district consolidation laws. It also makes it clear that the elections have to be held on one of the four election consolidation dates, which are in February, May, August and November.

**Senator Little** asked **Mr. Hurst** if "initially circulated" would apply to the effort going on in the Treasure Valley now. **Mr. Hurst** replied that was our intent when we presented this to legislative services, and it does not affect that. Those petitions have been submitted to Canyon and Ada County, and it will not interfere with that process. **Senator Little** commented that there is a slot for the school district in there, by going to Title 34, will it change the makeup of those petitions in the future. Is that the intent of this legislation? **Mr. Hurst** responded yes it will.

**MOTION:** **Senator Stegner** made the motion to send **H237** to the floor with a **do pass** recommendation. **Senator Jorgenson** seconded the motion. The motion carried by **voice vote**.

**H144a** **Representative Hart** presented **H144a** to the committee. **Representative Hart** stated this deals with surplus property owned by the Department of Transportation. It is property no longer wanted or needed by the department, and it is property they can't exchange for, or that they might have a use for. In the current code, if the property is valued at less than ten thousand dollars, it is offered to the contiguous property owner. If it is valued at more than that, the property is first offered to another governmental agency. The property can be sold to another governmental agency if they are interested in it for fair market value. Current statute allows if the property is sold for less than fair market value, it has to be used for public purpose. **H144a** will raise that threshold of ten thousand dollars to fifty thousand, or properties of less than one acre in size. These



properties will be first offered to the contiguous property owner before public auction, or sale to other governmental agencies. The Department of Transportation has attempted to write a rule to deal with the disposition of this surplus property. **Representative Hart** continued and stated that if the property is sold to the contiguous property owner there is an appraisal, and the property has to be sold at that value. If there is more than one contiguous property owner, than a private auction will be held.

**Senator Davis** asked **Representative Hart** when was the ten thousand dollars put into code. **Representative Hart** answered that was in 1996. **Senator Davis** asked if you were to put an inflationary factor on that, what would that number be today. **Representative Hart** replied I have not done that calculation. In Kootenai County I would think it would be in the range of thirty thousand dollars. **Senator Davis** stated the part that is troubling me on the amendment is "or less than one acre". One acre could be a pretty valuable piece of property. There doesn't appear to be a relationship of value to size. He asked **Representative Hart** to address that. **Representative Hart** responded the reason we put both in there is because the value of real estate varies greatly in Idaho. Desert land has almost no value at all, or properties that could be very small in an urbanized area that could have great value. The intent was to cover smaller properties that had limited use, and probably be most valuable to the contiguous property owner. **Senator Davis** commented that the changes on 36 and 37 are intended to say that it become mandatory, where currently it is discretionary. If it is determined to be surplus property, and there are no adjoining owners, and if the department determines they don't want it to be surplus, the effect of the amendment is that they don't have discretion to hold on to the property. May will allow them to sell the property or hold onto the parcel. **Representative Hart** replied it is my understanding that the property does not become surplus property until the Department of Transportation makes a finding, that they have no use for the property, and they need to dispose of it.

**Senator Little** stated what if the scenario is such that the department condemns a piece of property, and they redesign an interchange. They don't have a need for a portion, but they have already taken care of the curb cuts. There is only one contiguous owner and he doesn't want it and it goes to public sale. If the state paid one million for the property and at public sale it goes for one dollar, is that the intent of this legislation?

**Representative Hart** answered no it is not. The property has to sell for the appraised value. **Senator Little** stated the language states "shall then proceed to public sale", does it mean the department will keep it if it doesn't meet the appraised price. **Representative Hart** responded that the language was added by the Department of Transportation. When the property is offered at a private auction, the contiguous property owner has to offer fair market value for it. At a public auction, I am afraid I cannot answer your question. **Senator Little** stated I would really like an answer from the department before we send this out.

**CONSENT  
REQUEST:**

**Senator Little** made a unanimous consent request that **H144a** be held until Wednesday, March 21.

**S1178**

**Judie Wright**, from the **Governor's Office** gave a brief overview of

**S1178** which will change the manner in which human resources services are delivered throughout the state. At the first hearing on **S1178** on March 9, the committee requested a side by side explanation of the bill as it related to the changes, and an explanation for the changes. The Division of Human Resources provided the committee with extensive materials for their review.

**Senator Davis** stated I appreciate **Ms. Wright** wanting to walk us through this, but I have read it all and I have a lot of questions. He has read the rainbow sheet, the current law and the proposed law, the bill, and the reasons for the changes. Additionally, the details in the first half of the bill are the ones that I struggle with.

After lengthy discussion which mirrored the minutes of the original hearing on March 9, **Senator Davis** requested that we pick up the remainder of this tomorrow. **Chairman McKenzie** stated we can push this to our agenda on Wednesday. **Senator Davis** commented we are at the point where we need to be on the floor today. I am only about one third through the questions I have, and I could visit with the sponsors privately, but the questions are probably common to the committee and should be discussed. **Chairman McKenzie** responded that **S1178** will be added to the agenda for Wednesday.

**S1202** **Senator Little** stated that **S1202** will allow for the Land Board to have flexibility in scheduling their Board of Examiner meetings. **Senator Little** requested the committee to send **S1202** to the consent calendar.

**MOTION:** **Senator Geddes** moved to send **S1202** to the consent calendar. **Senator Little** seconded the motion and the motion carried by **voice vote**.

**ADJOURN:** There was no other business before the committee. **Chairman McKenzie** adjourned the meeting at 9:35 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** March 21, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** Senator Stennett.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** Having a quorum present, **Chairman McKenzie** called the meeting to order at 8:09 a.m.

**GUBERNATORIAL APPOINTMENT:** **Roger L. Jones** appointed to the Idaho Lottery Commission addressed the committee regarding his reappointment. **Mr. Jones** stated that he is from Rupert, Idaho and Glenss Ferry. He has been on the Commission for twelve years, and he is the Chairman of the Commission. The lottery has done very well and they are one of the few government agencies that returns money to the state. Last year their profit was thirty-three million dollars. It was split between education and the permanent building fund. **Mr. Jones** added that when the money is allocated to the school districts it is predicated upon enrollment. The Commission has a new director this year, **Jeff Anderson**. They estimate sales this year to be approximately one hundred thirty-three million dollars. Products they sell are limited compared to other state lotteries. Idaho is a power ball state, they have scratch tickets, but overall their games are limited. The Commission oversees the bingo as well. There are five commissioners, and he represents the Magic Valley from Rupert to Glenss Ferry.

**Senator Little** asked **Mr. Jones** when they supervise Indian gaming, where do the funds come from, and what does that cost the lottery. **Mr. Jones** answered we take it out of our regular funds, we look at the Indian gaming, but we have very little control over it. The funds they spend come out of their own budget, which is probably ten thousand dollars a year for travel etcetera.

**Chairman McKenzie** thanked **Mr. Jones** and advised him that the committee will vote on his appointment at the next meeting.

**S1178** **Chairman McKenzie** stated that at the request of the sponsor, we are holding this in committee.

**CONSENT  
REQUEST:**

The **Chairman** requested unanimous consent to hold **S1178** in committee. There was no objection from the committee.

**H144a**

**Representative Hart** returned to the committee regarding **H144a**, which is the disposition of surplus property owned by the Department of Transportation. **Senator Little** requested an answer at Monday's meeting, as to whether or not there was a mechanism, if the contiguous property owner declined to purchase the property. If there was a public auction later, could the property owner bid something less than the appraised value. **Representative Hart** stated that **Julie Pipal** is here today to answer that.

**Julie Pipal**, liaison to the Department of Transportation addressed the committee. **Ms. Pipal** stated that in no instance is the department allowed to sell property at less than the appraised value. They can negotiate with a public entity for less than the appraised value, and it has to remain in public use and perpetuity. If not, it reverts to the department.

**Senator Little** stated the language says "public use". You stated public entity, can I purchase it for public use and perpetuity? The code states public purpose, not public entity. **Ms. Pipal** answered in 58-335a, line 20, it reads "surplus real property may be offered for sale or exchanged to any tax supported agency, or political subdivision of the state of Idaho, other than the state of Idaho or its agencies". That would require it to be what we term a public entity, not a private individual. A private individual is required to pay the appraised value. **Senator Little** stated he doesn't have an issue with the ten to fifty thousand dollars, but what kind of money are we talking about with regard to the less than one acre. **Ms. Pipal** responded we don't know about the value. The acreage is not really applicable, and we told the sponsor we would prefer to just look at the value. **Senator Little** asked what about "shall then proceed to sale", and what does it do. **Ms. Pipal** replied that language was added to require the department, after it was offered to the contiguous landowner, to require us to then offer it for public sale. Currently, the practice is that we offer it to public entities and we believe the intent was always if the land was purchased with public dollars, it should stay in the public realm. This will require us, instead of going to public entities, to go to the public in general and offer it for sale. **Senator Little** commented by default this would put you through to the sale process.

**Chairman McKenzie** asked **Ms. Pipal** what would the minimum bid be for public sale. **Ms. Pipal** answered it would be the appraised value.

**Senator Davis** asked where is that in the code. **Ms. Pipal** responded on line 17, which allows us to negotiate with a tax supported entity, it would have to be for a public purpose. **Senator Davis** commented it doesn't say it has to be sold, it states it has to be offered for sale or exchange. I am still looking for the language that states you can't sell it for less than market value.

**Representative Hart** stated I can answer this question. On the

engrossed bill, on line 18 it states, in no case shall a property be sold or exchanged for a value less than established. **Senator Little** commented but the engrossed bill states "except" as provided in this subsection 1. **Representative Hart** answered the exception would be if the property was to be sold at a negotiated price to a public entity, and if they were going to use the property for a public purpose and perpetuity. **Senator Little** asked if the negotiated price could be ten percent of the fair market value. **Representative Hart** replied that is only if it sold to a public entity.

**Cindy Smith**, from the Department of Transportation, stated if you negotiate with a public entity it can be for any value, and they have to use the property as a public purpose and perpetuity. If not, it comes back to the transportation department and it can be resold again. **Senator Little** asked if it leaves a cloud on the title. **Ms. Smith** answered yes, there is a clause in the title, and it comes back to the department. She checks the properties on a yearly basis to make sure they comply.

**Representative Hart** summed up and stated that **H144a** really is a public policy adjustment to the process of disclosing of surplus property. This property is no longer needed by the department, either for their own development or for property they can't exchange with another entity. This adjustment came from a feeling if the contiguous property owner who is not first offered the property, then they are being treated as a second class citizen. **H144a** will open this up to public auction for anyone to purchase the property.

**Senator Little** asked **Ms. Smith** if the department buys or condemns a property, can a condition of the sale state that the contiguous property owner will be first in line to purchase it. **Ms. Smith** responded first the district has to determine that the property is surplus. When a project is completed and there is a surplus, it is offered at that time to the contiguous property owner. **Senator Little** asked is it a condition of the sale. **Ms. Smith** answered yes, it is automatically offered back. **Senator Little** stated I am going back to **Representative Hart's** comment about being a second class citizen. If the language is in the sales contract, then they are already elevated above everyone else. **Ms. Smith** replied this bill addresses the surplus property that has been out there for a while.

**Representative Hart** added that the properties that fall under the surplus category, only represent about one third of the surplus property.

**Senator Little** commented that he does not have a problem with the fifty thousand dollar number, but we are putting a new requirement on the department for parcels less than one acre, that could be worth millions of dollars.

**Chairman McKenzie** asked if there was further discussion or a motion.

**MOTION:**

There being no motion, **Chairman McKenzie** stated **H144a** will die in committee for lack of a motion.

**HCR26**  
**HCR27**

**Representative Edmunson** addressed the committee and stated that these are interrelated, so one interim committee will be able to handle both issues. Since 1908 we have been promised by the federal government twenty five percent of all revenues generated on public lands. The Craig Wyden bill will help our counties and schools bridge this gap we are losing on funds. We would like to form an interim committee to look at a long term solution. If we do get a reauthorization it will be for only one year. An advisory committee is looking for a solution to offset Craig Wyden. Oregon is dealing with the same issues, and they receive the largest percent of the Craig Wyden monies. If we add the biomass industry it is significant. Right now the forests have severe beetle infestation, mistletoe in the burr, so we have biomass everywhere. Eighty million tons are generated every year. **Representative Edmunson** added it is important to know that the National Forest Service does not want anymore slash burning. The biomass that we used to burn in the past will be required to be removed from the forest. Another part of this is that about half of our landfills are being filled up with wood products from construction projects. This is a huge untapped resource for the state of Idaho.

**Senator Little** asked the **Pro Tem** to yield to a question. He asked **Senator Geddes** if these two resolutions are in harmony with the decision that Leadership made. **Senator Geddes** answered yes.

**MOTION:**

**Senator Little** moved to send **HCR26** and **HCR27** to the floor with a **do pass** recommendation. **Senator Stegner** seconded the motion.

**Senator Geddes** stated that Leadership from both sides, minority and majority, met and determined that these two resolutions could be combined into one interim committee and work on this concurrently.

The motion carried by **voice vote**.

**HJM5**

**Representative JoAn Wood** presented **HJM5**, and she stated that the important part of the Memorial is Homeland Security and the highway funds being allocated for these projects. **Representative Wood** provided a handout to the committee regarding the proposed mega highway. Other states have issued resolutions similar to this memorial to Congress, to not have federal highways fund this. The Attorney General looked at this and we are on firm ground with this. **Representative Wood** stated our concern is that opening up the corridor from Mexico will bypass our Western ports with the goods that are shipped from the Asian countries. Recently the Secretary of Transportation opened the Mexican border, for pilot projects for Mexico trucks to come into the United States and carry goods.

**Senator Davis** stated I don't know what we are talking about. He asked **Representative Wood** to briefly explain this. **Representative Wood** responded that she would like to notify our Congressional Delegation that we should not endorse money spent for this mega highway that will transport goods up from Mexico into our country. Additionally, that we do not handicap our homeland security by opening our borders. **Senator**

**Davis** stated he is not sure what we should be doing in that regard, and secondly, are we sending the wrong message to our trading partner.

**Representative Wood** answered I don't believe we are saying that. We want to continue with the cooperative agreements with Penwar. There isn't a particular message here except that we do not want an agreement that may intrude on our sovereignty. **Senator Davis** stated the super highway goes through the heart of the country. Is our opposition or anxiety is that it goes around the West and bypasses Idaho.

**Representative Wood** responded if it went through Idaho she would be even more concerned with this.

**Senator Darrington** stated we have at least five interstates that dead end at the Mexican border right now. There are corridors already that connect the North and South interstate system for transportation routes outside of Mexico. **Representative Wood** replied she visited the facility at Nogales and a lot of money has been spent for state of the art inspection.

**Senator Stegner** stated that he attended the last Penwar meeting, and my impression is that the neighboring providence's to the Pacific Northwest and the neighboring states to Canada, were supportive of NAFTA (North American Free Trade Agreement). I am confused when you state the security of America will be negatively impacted by the SPP (Security and Prosperity Partnership) process, and the general tone in this Memorial that suggests the SPP process is truant to a free trade in some manner. It is recognized by Penwar as something that is necessary to balance the need for security. I am concerned this is going in the opposite direction of what Penwar suggested. **Representative Wood** responded this hasn't passed in Congress and it gives me concern. Before we step too far into an agreement it is important to have an oversight over this, and that doesn't have the sanction of our Congress.

**Senator Geddes** stated I have read a little about this super highway. It would be helpful for the committee to understand how this will be designed. He asked **Representative Wood** to discuss that.

**Representative Wood** replied that the conglomerate who is building this would also have control over it. It is an eight lane highway, with a fast rail movement. Another concern that I have not verified, is that some concessions on the highway would also be controlled by them. They are not U.S. companies. Eminent domain in Texas will take a lot of area and production in that state. The memorial is asking Congress to have oversight of this to sanction it or eliminate the fears of the people.

**Senator Jorgenson** asked if this highway would be limited to access, and would it be available to the general public. **Representative Wood** replied the concern is the goods coming into the states from Mexico, and the conglomerate would have a fifty year agreement.

**Senator Pearce** addressed the committee in support of **HJM5** and stated that the American job sector has suffered because of free trade. This is one more step that has never had Congressional oversight. With the highway linking with the coast of Mexico and trucking freight up through the United States, it will break the longshoremen in California. We are

going down a road that we are not sure we want to go down today. Federal tax dollars are being used and we already have highways that deliver to Mexico. This highway is being built by foreign companies who will control it.

**MOTION:** **Senator Davis** moved to send **HJM5** to the floor with a **do pass** recommendation. **Senator Geddes** seconded the motion and the motion carried by **voice vote**.

**Senator Stegner** requested it be noted that he did not support the motion.

**H53a** **Lieutenant Colonel David Dahle** presented **H53a** to the committee and stated that he is an attorney for the Idaho National Guard. There are two types of state service, State Active Duty and Special Duty. Currently under state code the only person who can authorize them to duty, is the **Governor**. **H53a** allows the adjutant general to call up national guardsmen on a voluntary basis, to perform special duty for the state of Idaho. It will provide increased flexibility in responding to a variety of circumstances which are not necessarily state emergencies. Special Duty is like State Active Duty, but authorized differently. This is a form of "temporary employment" and used for special projects, conventions, events, and planning when we often cannot use federal funding. Additionally, **H53a** provides for notice to the **Governor** when they know of an impending emergency, and we need the flexibility to plan and respond to specific missions.

**Senator Jorgenson** asked **Lieutenant Colonel Dahle** how the **Governor** feels about this. The **Lieutenant Colonel** replied this proposal has gone through the **Governor's Office** and it was validated.

**MOTION:** **Senator Davis** moved to send **H53a** to the floor with a **do pass** recommendation. **Senator Geddes** seconded the motion. The motion carried by **voice vote**.

**H55a** **Lieutenant Colonel Dahle** continued with **H55a** and stated it affects the employment of national guardsmen who belong to the national guard in another state. Under EMAC (Emergency Management Assistance Compact) the standard is state active duty. What they are concerned with is the problem when a national guardsman who is employed in Idaho, but belong to the national guard in another state, are called to State Active Duty from another state, and their employment would not be protected. **H55a** protects employment with national guardsmen and national guardsmen of other states, when called to State Active Duty by another **Governor**. They can return and claim their employment rights. Oregon and Washington have already enacted similar provisions.

**MOTION:** **Senator Jorgenson** moved to send **H55a** to the floor with a **do pass** recommendation. **Senator Stegner** seconded the motion and the motion carried by **voice vote**.

**H186** **Mike Reynoldson**, from Micron Technology presented **H186** to the committee. **Mr. Reynoldson** stated this deals with software licensing. There has been an act or law adopted in a couple of East coast states



called (UCITA) the Uniform Computer Information Transactions Act. UCITA substantially favors software vendors regarding licensing agreements. **Mr. Reynoldson** added this is in terms of manufacturing, and if they were in dispute with a software vendor, they fear if UCITA were to come into play, their software could be restricted and severely hamper their manufacturing operation. This bill states that for Idaho companies and individuals, the laws governing computer licensing for the state of Idaho will apply over UCITA. This is supported by the Property Casualty Insurance Association.

**Senator Davis** stated as a law commissioner we do not like this and it is considered to be an anti UCITA act. Micron slowed this down and let the proponents of UCITA make their best pitch. However, I am planning to vote for this.

**Senator Jorgenson** asked **Senator Davis** if he knew what is the choice of law provision contained in UCITA. **Senator Davis** answered that the purpose of UCITA is to try and enhance and create an environment where the vendor will determine the choice law. This just says we don't care what the small prints says, if you or the purchaser are a resident of Idaho, Idaho law will control this.

**Senator Jorgenson** asked **Mr. Reynoldson** in essence, will an Idaho company be held hostage essentially if there is a dispute. **Mr. Reynoldson** responded that is our fear. He asked **Brad Weisenberger** to address that. **Brad Weisenberger**, senior technology licensing counsel for Micron Technology, responded that there are some concerns with respect to the operation of UCITA, and its effect on Micron. In essence, there is some hostage taking tone because of the limited geographic scope of UCITA at this point. That being said, it is set up as a default statute in the absence of a negotiated agreement between the parties, and the absence of a robust meeting of the minds. What is troubling is that we are subject to the default provisions, but there is also an opportunity for the vendor to introduce new terms post transaction. We just want going into a transaction for the parties to agree on terms, to negotiate a meaningful transaction, and not be subject to terms that could back door their way into the transaction. **Senator Jorgenson** asked if he was aware of any other states, where public policy has determined that all transactions will be determined by their own state law. **Mr. Weisenberger** responded yes, there are a number of states that have adopted similar UCITA legislation.

**MOTION:**

**Senator Jorgenson** moved to send **H186** to the floor with a **do pass** recommendation. **Senator Geddes** seconded the motion. The motion carried by **voice vote**.

**H305**

**Bob Wells**, from the Governor's Office presented **H305** to the committee. **Mr. Wells** stated that **H305** is simply moving from the Department of Administration to the Idaho Military Division the communications functions for emergency communications. Post 911 this was the right thing to do and working with our Homeland Security. This will put all the first responder capabilities and functions in one spot.

**Senator Darrington** asked **Mr. Wells** if microwave services go through a lot of agencies besides emergency communications. **Mr. Wells** responded yes it does. There will be no loss of jobs from doing this, we are just changing the functionality.

**Senator Stegner** asked **Mr. Wells** internally how will this work, will they transfer to the military division. **Mr. Wells** answered yes that is correct, we will be moving them there. **Senator Stegner** asked what about their titles and office location. **Mr. Wells** replied we won't be moving their actual office location.

**MOTION:** **Senator Davis** moved to send **H305** to the floor with a **do pass** recommendation. **Senator Geddes** seconded the motion and the motion carried by **voice vote**.

**MINUTES:** The minutes of March 5, March 7 and March 9 were before the committee for approval.

**MOTION:** **Senator Malepeai** moved to approve the minutes of March 5. **Senator Jorgenson** seconded the motion. The motion carried by **voice vote**.

**MOTION:** **Senator Geddes** stated the minutes from March 9, are in good order and reflective of our meeting. He moved to approve them as written. **Senator Jorgenson** seconded the motion and the motion carried by **voice vote**.

The minutes for March 7, were held pending approval.

**ADJOURN:** **Chairman McKenzie** adjourned the meeting at 9:27 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** March 23, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Jorgenson, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** None.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Vice Chairman Jorgenson** called the meeting to order at 8:10 a.m.

**MINUTES APPROVAL:** The minutes of March 12, March 14, and March 16, were before the committee for approval.

**MOTION:** **Senator Darrington** stated that **Senator Jorgenson** has reviewed the minutes of March 12, and he moved to approve them. **Senator Stegner** seconded the motion. The motion carried by **voice vote**.

**MOTION:** **Senator Darrington** moved to approve the minutes of March 14, and **Senator Geddes** seconded the motion. The motion carried by **voice vote**.

**MOTION:** **Senator Darrington** stated he reviewed the minutes of March 16, and he moved to approve them as written. **Senator Stegner** seconded the motion and the motion carried by **voice vote**.

**RS17200C1** **Senator Little** stated that **Representative Labrador** will present **RS17200C1** to the committee. **Representative Labrador** stated that this deals with the election to create a new taxing district, and to mail notices within fourteen (14) days of such elections to property taxpayers. The purpose of the election will be noticed, the date of the election, and the polling place.

**Senator Little** pointed out that there was a previous bill and this has changes to lines 26 and 27. **Representative Labrador** commented that there was a concern with the previous RS with regard to the taxing districts, and that they would have to notice by mail and publish it as well.

**Senator Darrington** asked if there wasn't some controversy regarding the libraries. **Representative Labrador** replied that there was some controversy by the libraries at the hearing yesterday, but they are not opposed to this legislation with the change. **Senator Little** added that the

libraries had issues with any incremental increase with regard to the notification requirement.

**Senator Geddes** asked if the formation of the new taxing district fails, who will the county clerk bill for the cost of notification. **Representative Labrador** answered they could either pay for it themselves, or they could charge the party who wanted to create the taxing district.

**Senator Stennett** asked what was the hearing yesterday?

**Representative Labrador** replied there was a hearing in Local Government, and it was referred to State Affairs because they did not have the authority to print the RS. **Senator Stennett** asked if this will go back to Local Government. **Senator Geddes** responded most likely.

**Senator Little** stated the motion in Local Government was to send it direct to the floor. **Senator Stegner** commented that yesterday's hearing was not a print hearing. It was a hearing to see if there was unanimous support to send it to this committee for print. If this committee votes to print it, they can recommend that it go direct to the floor.

**MOTION:**

**Senator Little** moved to print **RS17200C1** and send it to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**H184a**

**Representative Roberts** presented **H184a** to the committee and stated that **H184a** deals with minimum wage laws of the state of Idaho. Idaho Code 44-1502 under minimum wages, provides that the amount of the wage will conform with the federal standard. In section 2, with regard to tip credit, when determining the wage of the tipped employee, the amount of direct wages paid by the employer to the employee, shall be deemed to be increased, on the count of tips actually received by the employee. If the tips do not meet minimum wage, the employer must make up the difference.

**Representative Roberts** continued and stated if the federal legislation has been acted on, then the minimum wage should be increased to \$5.85 per hour beginning the sixtieth day after the enactment. After twelve months it will be increased to \$6.55 per hour, and in twenty four months it will be \$7.25 per hour. The dollar amounts are set by the federal, and this sets Idaho to track with that from here on. This bill will include farm workers and our tip credit is higher than federal standards.

**Senator Jorgenson** stated if a person doesn't receive their tips, will the employer be obliged to make up the difference. **Representative Roberts** answered yes, in all cases the employer would be required to make up the difference.

**Senator Davis** asked how many state employees are being paid minimum wage. **Representative Roberts** responded that he does not know.

**Senator Malepeai** asked what is the process if the employer does not make up the difference, is there a grievance process in place?

**Representative Roberts** replied that he believes there are provisions in Commerce and Labor Department rules.

**Senator Davis** stated there is a mechanism by which the Department of Labor will help facilitate the prosecution of that.

**TESTIMONY:**

**Bret Noble**, representing Idaho Community Action Network, spoke in support of **H184a**. He stated that minimum wage is a moral and an economic issue, and as a society we have a moral obligation to allow our families the ability to stay strong. Idaho's minimum wage is a poverty wage. This bill will not move families to a living wage, but it is a start we cannot ignore. **Mr. Noble** added we all want what is best for our children. Our current wage is the same as the 1950's. **Mr. Noble** urged the committee to support **H184a**.

**Alicia Clements** from ICAN (Idaho Community Action Network) addressed the committee. **Ms. Clements** stated that \$5.15 per hour is not enough to live on for a family in Idaho or anywhere else. The members of ICAN request that you vote yes to increase the minimum wage to help Idaho's working families. If Idaho does not raise the minimum wage to match the federal wage, there are workers who would not get a raise. **Ms. Clements** added that Idahoans who are working hard deserve better. She asked the committee to support **H184a**.

**Senator Stennett** stated this bill will not raise minimum wage. This bill states that if the federal government raises the minimum wage, that Idaho will do the same.

**Marty Durand**, Executive Director of the Idaho Women's Network testified in support of **H184a**. A 2004 study done by the Institute for Women's Policy Research, ranked Idaho forty-eighth in the nation, and last in the mountain west region on employment and earnings composite index for women. **Ms. Durand** stated that Idaho's working women are not doing well, and it is worse for women of color, rural women and women with children. Twice as many women as men make only minimum wage. These families need and deserve a living wage. She urged the committee to support **H184a**.

**Senator Stennett** stated you are an attorney and you have read the bill. What does this bill do? We are not raising the minimum wage here in Idaho. This bill will not do that. **Ms. Durand** responded I understand that this will not independently raise Idaho's minimum wage. It will allow Idaho to conform to federal standards.

**Pam Eaton**, President of Idaho Retailers Association and Idaho Lodging and Restaurant Association, addressed the committee regarding **H184a**. **Ms. Eaton** stated this is a smart idea to put something in place that we will conform with the federal government. The main reason the association supports this is because it addresses the tip credit that is important to restaurants. **Ms. Eaton** urged the committee to send **H184a** to the floor with a **do pass** recommendation.

**Senator Stennett** commented that **Ms. Eaton** knows something that is in the federal law that he is not aware of. Will the federal law provide for a better tip credit than Idaho? **Ms. Eaton** answered in the federal bill that is going forward right now, they do not address the tip credit. So this piece of legislation is higher than the federal which is \$2.13, and it will remain there.

If written testimony was provided to the committee, it will be attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**MOTION:** **Senator Davis** moved to send **H184a** to the floor with a **do pass** recommendation. **Senator Stegner** seconded the motion.

**Senator Stennett** asked to speak to the motion. He stated I am curious that we can pick and choose federal laws to agree or disagree with. That is what this bill purports us to do. If the federal government passes the law, that we will go along with it. It doesn't raise a state minimum wage and I do not support this.

The motion carried by **voice vote**. **Senator Stennett and Senator Malepeai** opposed the motion.

The gavel was turned over to the Chairman.

**GUBERNATORIAL APPOINTMENT:** The confirmation vote of **Roger L. Jones** to the Idaho Lottery Commission was before the committee.

**MOTION:** **Senator Little** moved to confirm the appointment of **Roger Jones** and **Senator Jorgenson** seconded the motion. The motion carried by **voice vote**.

**RECOGNITION:** **Chairman McKenzie** stated we have a final piece of business today. In anticipation that we will be finished soon, we have a letter of recommendation and a gift for our page, **Jamie Godfrey**. **Chairman McKenzie** added that he is always amazed at the maturity and attitude of the pages in our committee. **Jamie** has been a great asset to our committee and on the floor of the Senate.

**Jamie** stated she was grateful to serve on the committee and that she plans to go to college. She thanked the committee for the letter and added that she would appreciate individual personal recommendations as well.

**ADJOURN:** **Senator Davis** commented that before we adjourn, this could be the last committee meeting ever held in this room. **Senator Darrington** added that there is a lot of history in this room. It was remodeled in 1990 and he has given thought to that today, and he is enjoying the view from the window.

**Chairman McKenzie** stated that is significant and he appreciates serving as chairman of the committee. **Chairman McKenzie** adjourned the

meeting at 8:45 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary

## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** March 26, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman McKenzie, Senators Darrington, Geddes, Davis, Stegner, Little, Stennett, and Malepeai.

**MEMBERS ABSENT/ EXCUSED:** Vice Chairman Jorgenson.

**GUESTS:** Sign in sheet attached to original minutes on file in the Committee Office until the end of the 2007 legislative session, after which it will be retained in the Legislative Library (Basement B).

**CONVENE:** **Chairman McKenzie** called the meeting to order at 8:07 a.m.

**RS17198C2** **Chairman McKenzie** stated that it is not typical to have a full hearing at a print hearing, but due to the fast pace of this, and the fact that many have signed up to testify, we should allow time for them.

**Senator Stennett** asked if this bill would come to the committee for hearing. I thought it was available on the internet, but it is not. He stated that after printing it would be available to the public and should not go direct to the floor.

**Keith Allred**, representing The Common Interest, presented **RS17198C2** to the committee. **Mr. Allred** stated that he first would like to share the merits in argument for primary elections going in this direction. From the perspective of The Common Interest group, when considering election policy, what are elections for. They are the core and they are supposed to provide winners of an election. Who best represent the interests and perspectives of the citizens that they seek to represent. Their support is based on conclusive empirical evidence, to generate representative winners of elections. Research finds that the type of primary has the following significant effects. First, closed primaries, where only registered members of a party can vote in the primary. Open primaries are better because they produce better representation of their districts, and modified closed primaries are best because they allow independents to vote in the primary of their choice.

**Mr. Allred** continued and stated that closed primaries are worse in terms of generating representative winners because in primaries, the voter turnout tends to be low. In those circumstances it is those who have the strongest ideological views, who are most motivated to come out and vote. Modified closed primaries are better than open primaries of producing representative winners, because there are two kinds of cross-



over voting. First there is strategic, or manipulative cross-over voting, in which a vote is cast for the weakest candidate that can be most easily defeated. Members of the U.S. Supreme Court refers to this as "Tom Foolery", when a rival partisan crosses over into the other party in order to vote for a candidate that they ultimately want to beat in the general election. Genuine cross-over voting is when a vote is cast for the candidate, that the voter prefers, and actually have win the election.

Research shows that party members engage more in the strategic cross-over voting, while independents tend to vote for who they want to win. So modified closed will provide the best results, because it diminishes the manipulative kind of cross-over voting, while encouraging the voting of an independent. Research confirms that there is a problem that a bill like this can address.

The DNC (Democratic National Committee) also believes that strategic cross-over voting is a serious problem. Their charter rejects the results of open primaries. They do not want Republicans to have a say in who their presidential nominee is. This is the reason that the Democratic Party in Idaho holds a presidential caucus rather than a presidential primary. The DNC does however accept the results of modified closed primaries, which is proposed in this RS. This RS provides an opportunity to improve the representativeness of our elected officials, and this is the primary criteria in which elections should be judged. If the Legislature does not act this year, we may well lose our open primary anyway. The Central Committee of the Idaho Republican Party will likely make party affiliation an internal requirement for participation in their primary, and they are confident that they would prevail in a legal challenge. If they do not act, several county and legislative district central committees are drafting resolutions to do so. This is primarily based on a successful legal move to do this by a Republican legislative central committee in Virginia.

This RS presents a stark choice to the Legislature. It presents the Legislature an opportunity to make Idaho's election process do better, what it is primarily supposed to do - produce elected officials who represent the interests and perspectives of the citizens in their districts. This is something all of us should support. On the other hand, if the Legislature does not print and pass this proposal, it is likely that after a messy litigation process, Idaho's open primary statute will be trumped by an internal Republican Party rule. It will close its primaries, including closing them to independents, and the result will be elected officials who are more ideologically extreme and less representative of the citizens they seek to represent.

As for the technical details of the RS, **Mr. Allred** continued and directed the committee to refer to certain sections of the bill. A major issue was addressed in response to **H185**. It refers to the seven hundred thousand permanently registered voters in the state of Idaho, who have not been registered by party line. This will now require them to designate a party in a primary or vote as an independent. The county clerks will then record those selections of party affiliation in the registration records of the state in 2008. After 2010, anyone who has not selected a party affiliation will

default to independent. The fiscal impact is approximately two hundred fifty thousand dollars to be appropriated to the Secretary of State for implementation costs.

**Senator Stennett** stated that by its very nature these elections are partisan. He asked **Mr. Allred** where is non-partisan ballot defined in this. **Mr. Allred** replied most non-partisan ballots are in the judicial elections, so there is an option if someone refuses to indicate a party affiliation, they can vote on the non-partisan ballot. **Senator Stennett** stated if you are a voter and you take offense to someone asking where you sit, would you be allowed to vote in either of the party elections, or only in the non-partisan. **Mr. Allred** responded that is correct. If they refuse even independent status or to be recorded in the poll book, then they would not be allowed to vote in any partisan primary. **Senator Stennett** stated on page 4, line 37, it does not say that. It says if an independent does not indicate a political party primary choice, then that elector will receive a non party ballot. **Mr. Allred** pointed out on line 39, if they do not indicate a choice of party or fail or refuse to select a party affiliation, then the elector shall not be able to vote in any political party's primary election, and shall receive a non-partisan ballot. **Senator Stennett** asked what if there is no opposing ballots, and you are an independent, and there is no one to vote for, what does the voter do. **Mr. Allred** answered they do the same as they would under the current system, which is to pick one party's ballot or the other.

**Senator Malepeai** asked if I am an independent do I have to designate one party or the other. **Mr. Allred** answered no, you can be an independent or you can designate nothing at all. If you refuse to designate, then you are recorded as an independent. **Senator Malepeai** stated if I want to participate in the Republican or Democratic primary I would have to designate one or the other. In two years from that, as an independent, can I do that at that time and still be okay. **Mr. Allred** stated yes, that is correct. **Senator Malepeai** stated it seems to me in the state of Idaho we are independents. What is to prevent everyone from declaring they are independent with this RS. **Mr. Allred** answered I see your point, but modified closed will give you a different result than an open primary. It reduces the amount of Tom Foolery.

**Senator Stennett** asked **Mr. Allred** what is the process to change party affiliation. **Mr. Allred** responded we are a same day registration state and this does nothing to change that. **Chairman McKenzie** stated that is on page 3, line 48. **Senator Stennett** commented that you made a statement we are doing this to make sure the Republicans do not sue the state. If this passes and becomes law, what will prohibit any individual from suing the state. **Mr. Allred** answered that central committees are drafting resolutions on this, and they are looking at the Virginia case as a precedent. There is a distinction in the Virginia statute where the incumbent can tell the central committee which nominating process they want to go through. Personally I have been involved in conversations, and The Common Interest is an independent moderate organization that has had more conversations with Republican diehards in the past few weeks. The author of the resolution indicated that modified closed is not

the preference, they are also dedicated members of the Republican party, and don't particularly relish the idea of litigation. They prefer that this legislation go forward. **Mr. Allred** added that he has not talked to everyone, and this bill does not provide any guarantee on that front. The co-sponsor of this bill, **Kirk Sullivan**, has had extensive conversations with members of the state central committee. **Senator Stennett** asked **Mr. Allred** to consider withdrawing his earlier statement that there is a local legislative committee and county committee, that is considering suing the state, and that this is what this bill is about. **Mr. Allred** stated that is a factual statement and what has been represented to us. If this bill does not go through, then they will draft that resolution. I cannot guarantee to you that everyone will come to that decision.

**Representative Labrador**, one of the sponsors, addressed the committee. He is an attorney and he is involved with this, because initially it was presented in the House State Affairs. There were some legal questions raised during the print and subsequent hearings, where people were confused on both sides. **Representative Labrador** stated that the proponents of the closed primary bill were confused as to what the case law stated, and the opponents were confused as well. After reviewing the case law, it is very clear to him. There is no right to vote in a primary, and there is confusion about this. The case law has been clear that the Supreme Court of the United States says, political parties have a right of association that trumps any other right that voters may have. If you look at case after case, they all state the same thing. In *DMC v. Jones* in California, it was a blanket primary, not open and it went through a litany of issues and stated the reasons why they wanted a blanket primary. 1) To produce elected officials who better represent the electorate, 2) To expand the debate beyond partisan concerns, 3) To ensure that the disenfranchised or independents of minority party voters in safe districts, enjoyed the right to an effective vote, 4) To increase fairness of the process, 5) To afford voters a greater choice of candidates, 6) To increase voter participation, and 7) To preserve the privacy of voters who did not publicly affiliate with a party. These are the issues that have been raised, and the Supreme Court says those concerns do not trump the right of free association of political parties.

**Representative Labrador** continued and stated **Senator Stennett** mentioned the protection of independent votes. **Representative Hagedorn** came up with the second draft of the bill that deals clearly with independents. We were concerned with the case law, and it says the parties must decide. **Mr. Allred** came on board and we have worked closely with him, to make sure that we have a bill that would meet the constitutional challenge that will come, if this bill doesn't pass. The difference between an independent voter is that they are less likely to engage in Tom Foolery, like we have seen in previous elections. They will vote for a candidate they want to win, but the partisans are more likely to engage in Tom Foolery. This is a good compromise that will serve the people of Idaho. There is a legal and a political reality in this bill. The legal is that the parties have a right to choose, and the political reality is that any party will be less likely to bring suit if something like this is passed. The **Attorney General** indicated that in order for a party to have

standing, it has to be part of the rules of the party to have a closed primary. Currently, Democrats have that in the rules but they do not enforce it. Republicans do not have it in their rules. In order for the Republican party to file suit, they have to have it in the rules, and I do not believe they will do that, if this bill passes. The central committee in Idaho will not have legal standing, because in Virginia there was a particular provision in their law that gave them standing.

**Senator Little** stated that he has a hard time with the right of association. This usually prohibits requiring a group to register. **Representative Labrador** responded that the Supreme Court has said that the right of association attaches to the political party. When the parties have the right to decide how their elections will be held, they can state who they want to vote in a primary election. The right of association is not about everyone having to register.

**Senator Stennett** commented that you stated no one has the right to vote, so why not just change the rules. Why is this before the legislature and why is the Republican party dragging everyone into the fight. **Representative Labrador** responded that first he disagrees with his characterization. It is important to note that this is a fight that might happen, and it is better for the legislature to deal with the political issues of the state, than to allow a federal court to decide for us.

**Senator Davis** commented perhaps that question can best be answered with a question. That is, why doesn't the Democratic party let independents participate in selection of its presidential nominee. **Senator Stennett** replied that the Statement of Purpose on this legislation does not include any Democrats. That is my question, it is about the bill, not what **Senator Davis'** version is. Why is this bill before this legislature? **Representative Labrador** responded this is one of the issues that has been raised during this process, that the Republican party has been accused of being exclusionary to independents. The only party that currently has an exclusionary rule in the state of Idaho is the Democratic party.

**Senator Darrington** asked why start here in the Senate instead of the House. **Representative Labrador** replied we started there and came to a point that we had an agreement, that we think will pass in the House. Several hearings were heard and it didn't seem necessary if it will not pass in the Senate.

**Representative Hagedorn** addressed the committee and stated that one of the hardest things they dealt with was taking off their party hats. This clearly involves political parties, and the code needs to allow flexibility for the parties, and how they would like to run their primary elections. This is not about the Republicans trying to take over, or to have some kind of an advantage. This is a combination of all the different bills they went through to figure all of this out. **Representative Hagedorn** added that the last time code was changed in Idaho was in 1972, when we went from a semi-closed primary to the current open primary. Voter participation has decreased from fifty percent to an average of thirty-two percent. In 1972

eighteen year olds were allowed to vote, which should have increased the voter participation rate. This will not close all the doors to Tom Foolery, and the people of Idaho are very ethical.

**TESTIMONY:**

**Sharon Widner**, addressed the committee in opposition to the bill. **Ms. Widner** stated that she is president of the Idaho Association of County Recorders and Clerks. All of the clerks are in agreement that this should be implemented slowly. There are a lot of questions that need to be answered. This will be a major change in the election process and they feel it is too late in coming. The clerks have not had sufficient time to review this as well as the legislature. There are some inconsistencies in the bill, and they have questions on the cost involved to do this. Ballot printing and changes are needed, and they will need additional poll workers. **Ms. Widner** added even with education there will be those voters who will have questions. This will be another job for the poll workers to have to deal with. **Ms. Widner** urged the committee to review and analyze this before it is implemented.

**Senator Malepeai** asked **Ms. Widner** on what grounds can someone challenge a voter. **Ms. Widner** answered there is statute and poll workers can challenge a voter.

**Senator Davis** commented that in his county, his children were away at college and they wanted them to be disallowed to vote in the election.

**Senator Malepeai** asked if someone's party affiliation could possibly be challenged. **Ms. Widner** answered that she did not know.

**Senator Stennett** stated that he is looking at the possible intimidation factor. If the voter has to declare one party or the other, he asked **Ms. Widner** for her opinion in that regard. **Ms. Widner** responded yes, there will be some intimidation.

**Abbie Mace** testified in opposition to the bill. **Ms. Mace** stated that she is a clerk from Fremont County. As clerks, they have many concerns because they have to deal with whatever legislation is passed. This is too big of a change at this time in the session. They need time to review this and make certain things will not be too difficult when it is implemented. The poll books will be affected, and how will they maintain them. There will be privacy issues and they may be accused of favoritism. The whole process will be cumbersome and confusing. From an implementation standpoint, this raises many questions. **Ms. Mace** urged the committee to step back and take a closer look at this.

**Senator Stennett** asked what is the population of Fremont County, how many ballots are printed, and what is the cost. **Ms. Mace** responded there are approximately twelve thousand and sixty-five hundred are registered voters and she is not sure of the cost. **Senator Stennett** asked would this triple your costs. **Ms. Mace** answered yes.

**John Gannon**, an attorney here in Boise testified in opposition to the bill. **Mr. Gannon** stated voter preference is not the government's business. This bill will now be a public voter record, and these records will be

available to national data collection companies and marketers of information. He commented that a friend asked why do they give us private voting booths, if they are going to make our vote public. The Common Interest group has not done an analysis on how privacy will affect voting. Party affiliation will be public record and could be used in hiring and promotion decisions.

**Keith Allred** summed up and stated there is analysis on privacy. The majority of states in this country have closed or modified closed elections. Voter turnout is nationally higher in closed primary elections and modified closed primaries, than open primaries. It is not a matter of public record as to who a voter chooses to vote for. It is a matter of record which primary they vote in and the party. That is the change. **Mr. Allred** added that the clerks are exactly right. Implementation will be an issue and some voters will not be enthusiastic and they will need to be educated. At the end of the day, elections are for a particular purpose, and that is, we are governed by the people.

**Senator Davis** stated that he would feel uncomfortable printing this and sending it straight to the floor without a hearing. The clerks have given us some good input and we desperately need that.

**MOTION:**

**Senator Davis** moved to print **RS17198C2** and **Senator Geddes** seconded the motion.

**Senator Stennett** made a substitute motion to return **RS17198C1** to the sponsor. **Senator Malepeai** seconded the motion.

**Senator Davis** stated he is confused by the maker of the substitute motion. The maker had argued pretty admirably that we have not had an opportunity for public input and participation. His motion will exclude the public from participating. **Senator Davis** urged **Senator Stennett** to withdraw his motion so this will be out there for the public to review.

**Senator Stennett** stated he would be in favor of printing this if we are not going to hold another hearing on it. This is a pig and we can't put enough lipstick on it to make it look any different than a pig. **Senator Davis** stated hiding this will not give individuals an opportunity to identify whether this is sausage, pork, bacon or ribs. By printing this it will allow individuals the opportunity to look at it. We have a centralized way for each individual in the state of Idaho, to have equal access to the legislation. If we return the RS to sponsor only a handful of people will have a copy of the RS. **Senator Stennett** commented that he appreciates the Majority Leader's opinion on that. If the motion is to print and let it sit I will support it, but that is not the motion. The motion is to print it and bring it back to committee for a hearing.

**Senator Little** stated that the clerks may not like this, but they won't like it when they get it a few months prior to the next primary. Getting this printed and putting it out there is more conducive to the process. **Senator Little** stated I oppose the substitute motion.

**Senator Stennett** requested that a roll call vote be taken.

**Senator Geddes** asked if **Senator Stennett** was referring to C1 or C2. **Senator Stennett** responded that he has a copy of C1 and it was provided to me on Friday by the sponsor. **Chairman McKenzie** stated that we were discussing C2 this morning. **Senator Stennett** commented that he studied over the weekend on the C1 version. **Senator Davis** stated that the Minority Leader has just proven why we need to print this, so that everyone is working off the same page. **Senator Stennett** amended his motion to C2.

The roll call vote to return **RS17198C2** to the sponsor was taken.

Senator Darrington - Nay  
Senator Geddes - Nay  
Senator Davis - Nay  
Senator Stegner - Nay  
Senator Little - Nay  
Senator Jorgenson - Absent  
Senator Stennett - Aye  
Senator Malepeai - Aye  
Senator McKenzie - Nay  
The motion **failed**.

**Senator Davis** stated before the roll call is taken, the motion is to print the **RS17198C2**, and nothing is implied should the legislature choose to go forward.

The roll call vote on the original motion to print **RS17198C2** was taken.

Senator Darrington - Aye  
Senator Geddes - Aye  
Senator Davis - Aye  
Senator Stegner - Aye  
Senator Little - Aye  
Senator Jorgenson - Absent  
Senator Stennett - Nay  
Senator Malepeai - Nay  
Senator McKenzie - Aye  
The motion **carried**.

**ADJOURN:** There was no other business before the committee. **Chairman McKenzie** adjourned the meeting at 9:33 a.m.

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Senator Curt McKenzie  
Chairman

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Deborah Riddle  
Secretary